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THE HISTORY and PROCEEDINGS OF THE HOUSE of LORDS,

FROM THE

RESTORATION in 1660,

TO THE

PRESENT TIME.

CONTAINING,

The most Remarkable MOTIONS, SPEECHES, DEBATES, ORDERS and RESOLUTIONS.

Together with all the PROTESTS during that Period.

AND THE

Numbers *Pro* and *Con* upon each Division.

WITH

An Account of the Promotions of the several PEERS, and the State of the PEERAGE in every Reign.

Connected with the Transactions of the COMMONS, and HISTORY of the TIMES.

AND

Illustrated with HISTORICAL NOTES and OBSERVATIONS.

Together with the DEBATES in the Parliament of SCOTLAND relating to the UNION.

To each VOLUME are added proper INDEXES.

VOLUME the SIXTH, from 1738, to 1740.

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G. R. III.

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THE HISTORY and PROCEEDINGS OF THE HOUSE of LORDS, WITH THE DEBATES and PROTESTS therein.

Ann. 12 Geo. II. 1738-9.

Convention laid before the House of Lords.

FEB. 5, 1738-9. The Duke of *Newcaſtle*, by his Majeſty's Order, laid before the Houſe of Lords, a Copy of the Convention between *Great Britain* and *Spain*, concluded at the *Pardo*, *January* 14, 1739. N. S. with Copies of the two ſeparate Articles, and his Majeſty's and the King of *Spain*'s Ratifications, together with Tranſlations of all of them.

Whereupon the Lord *Carteret* ſtood up and ſpoke as follows:

Lord *Carteret*.

'My Lords, I hope your Lordſhips will pardon me, if I ſhall preſume to trouble your Lordſhips, by imparting to the Houſe ſome few little Scruples I have, with regard to the Papers delivered in to your Clerk by the noble Duke. Your Lordſhips are, no doubt, ſenſible how much Reaſon we all have to be jealous of every Step that we now take

Ann. 12 Geo. II. 1738-9.

in this important Affair; you are ſenſible how much we have been already impoſed upon in all our Negotiations with *Spain*, and how intent the Eyes of all the Nation are upon your Lordſhips Proceedings on this Occaſion. Theſe Conſiderations, my Lords, will, I hope, ſerve to excuſe my Diffidence, eſpecially when I aſſure your Lordſhips that I now ſtand up, not with any Intention to embarraſs the noble Duke, or any of the Miniſtry, but to contribute, as much as I poſſibly can, towards your Lordſhips having a clear and diſtinct Notion of all this Tranſaction.

'The noble Duke has been pleaſed to inform the Houſe, that he has, by his Majeſty's Orders, communicated to your Lordſhips the Convention between his Majeſty and *Spain*, together with the ſeparate Articles, and the Ratifications; and I think, my Lords, we ought all of us to be ſenſible of his Majeſty's great Condeſcenſion in communicating them ſo early in the Seſſion.

'But, my Lords, I have known, where a Tranſaction of this kind has happen'd, that one of the contracting Powers has preſented a Proteſt, or Declaration, importing, that ſhe acceded to ſuch or ſuch a Meaſure, only upon Condition that the Terms of that Proteſt or Declaration ſhould be made good: Nay, my Lords, I have known Inſtances when it has been particularly expreſs'd in ſuch a Proteſt, that if the Terms requir'd were not fulfill'd, the whole Proceeding ſhould be invalid. My Lords, it is with the greateſt Reluctance imaginable that I preſume to ſuggeſt that this poſſibly may be the Caſe at preſent; I have too good an Opinion of our Miniſtry's Zeal and Abilities to aſſert that it is: But give me leave to ſay, my Lords, that *Spain* has behav'd with ſo much Inſolence and Injuſtice, that we can ſuppoſe nothing ſo inſolent and unjuſt which ſhe may not be guilty of. Our Miniſters, my Lords, with the pureſt Intentions in the World, may be impoſed upon; they may not foreſee the Conſequences of ſuch a Step. My Lords, I have known it to have had very bad Conſequences, and therefore I am the more jealous of every Tranſaction where any ſuch Proteſt may take place. If, my Lords, no ſuch Step has been taken in this Tranſaction, as I am very far from affirming that there has, it will be of the greateſt Conſequence to the Government, that thoſe without Doors be made eaſy upon that Head; for, my Lords, though I believe no Lord here thinks that any ſuch Meaſure is gone into, yet I can aſſure your Lordſhips that ſuch an Opinion, I cannot conceive how it aroſe, is entertained without Doors. It will likewiſe be of the greateſt Conſequence to your Lordſhips, in the Judgment you are to make upon this Convention,

Convention, if you are informed, by Authority, that no such Proteſt, or Declaration, on the part of *Spain*, exiſts. For my own part, my Lords, I frankly own to your Lordſhips, that I am not free to give my Sentiment on any one part of a Tranſaction of this kind, without ſeeing the whole of the Tranſaction. For, my Lords, the Judgment which any Lord of this Houſe may form of it upon ſeeing the Convention alone, may be very juſt and right; but if the ſame Lord conſiders it as clogg'd with a Proteſt affecting the whole, he may ſee very good Cauſes for altering his Opinion. So that, my Lords, till ſuch time as my Mind is free from the moſt diſtant Suſpicion that ſuch a Paper may exiſt, I can never form a juſt Opinion, myſelf, nor can I communicate to, or receive from your Lordſhips any Light that may be neceſſary for that Purpoſe. Your Lordſhips are the beſt Judges in what manner ſuch an Information ought to be communicated to the Houſe. What I have ſuggeſted to your Lordſhips, is, as I humbly conceive, ſo reaſonable in itſelf, that I dare ſay the noble Duke, and thoſe who have had the honour to be in the Secret of this Tranſaction, will be extremely glad to have this Opportunity of vindicating their own Characters, by letting this Houſe, and all the World ſee, that they have entered into no ſcandalous, no clandeſtine Meaſures, and that, while they conſulted the Peace of the Nation, they had a Regard to its Honour and Intereſt.'

Ann. 12 Geo. II. 1738-9.

The Earl of *Cholmondley*.

' My Lords, it is with the greateſt Satisfactionthat I obſerve in the noble Lord, who ſpoke laſt, ſo much Candour, and ſuch a Deſire to be impartially inform'd of the true State of Affairs betwixt us and *Spain*. The noble Lord's Sentiments will have great Weight with me, as I believe they will with every Lord in this Houſe. The noble Lord has been ſo much engaged in Foreign Affairs, and diſcharged every Character he filled with ſo much Capacity, that he muſt be extremely well verſed in Things of that Nature. But, my Lords, I muſt beg Leave to put your Lordſhips, and the noble Lord, in mind, that the Forms of this Houſe are not to be diſpenſed with on this, or any other, Occaſion. Your Lordſhips, I dare ſay, are ſufficiently ſenſible how much they contribute to the Continuance of our Power; and, my Lords, we have as much Reaſon to preſerve them upon the preſent Occaſion, as upon any Occaſion I can recollect, ſince I have had the Honour to ſit among your Lordſhips.

Earl of *Cholmondley*.

Ann. 12 Geo. II. 1738-9.

'If I am ſo happy as to apprehend the noble Lord's Meaning who ſpoke laſt, his Lordſhip deſires that the Houſe may be inform'd, if there are any other Papers that have been ſigned by our Miniſters here, or at the Court of *Spain*, relating to the Convention, beſides thoſe deliver'd to the Houſe. My Lords, I think the noble Lord's Queſtion extremely improper to be anſwer'd here. His Lordſhip cannot be properly inform'd but by One, who has the honour to be one of his Majeſty's Council; and we cannot ſuppoſe that ſuch a Perſon will divulge, even to this Houſe, a Secret which perhaps he is ſworn to conceal. Your Lordſhips may, indeed, addreſs his Majeſty to know if all the Papers, that have paſſed betwixt us and *Spain*, are comprehended in thoſe that the noble Duke has now deliver'd to the Houſe; but, my Lords, ſuch an Addreſs would be quite unprecedented, and, give me leave to ſay, unreaſonable; for his Majeſty would, no doubt, order the Secretary to inform the Houſe that they are not; and if your Lordſhips ſhould inſiſt on ſeeing them all, it would occaſion a very needleſs piece of Trouble and Expence; for they have been ſo many, that the very copying them over muſt employ all the Clerks in the Secretaries Office for ſome Days, if not Weeks. For my own part, I think I am able to form a Judgment of any Treaty or Convention, if that Treaty or Convention is laid before me. It is true, if the terms of it ſhould run ſo far as to refer to a Paper I have never ſeen, it is abſolutely neceſſary that I ſhould ſee that Paper; but if that is not the Caſe, I am to be determined by what I do ſee, and will conſider what is laid before me as the whole of that Tranſaction. If, when your Lordſhips ſhall come to conſider this Convention, you ſhall ſee reaſon for ſuſpecting any ſuch Management as the noble Lord who ſpoke laſt has hinted at, I ſhall be very willing to concur with every Motion that may ſerve to give your Lordſhips the neceſſary Information; but in the mean Time I ſhall beg leave to take it for granted, that the Papers now deliver'd in, are all that are neceſſary for my forming a right Judgment of this Tranſaction; and while I do that, my Preſumption is certainly on the moſt probable ſide. But were I of any other Sentiments, I don't think that what the noble Lord has let fall ought to be any Reaſon why your Lordſhips ſhould expect any immediate and direct Anſwer. If the noble Lord has a Motion to make, I ſhall hear it with great Pleaſure, and it may be now debated; but I am humbly of Opinion, that if his Lordſhip does not reduce what he has to ſay to a regular Motion, we ought to proceed upon the Buſineſs of the Day.'

The

The Lord *Carteret*.

Lord *Carteret*.

'My Lords, when I threw out my diſtant Surmiſes with great ſimplicity of Heart, I did not think that they would have occaſioned ſo long an Anſwer from the noble Lord who ſpoke laſt. What fell from me, my Lords, was as I apprehended, ſo evidently calculated for your Lordſhips better Information in this Important Affair, that I did not think it would have met with the leaſt Oppoſition. But, my Lords, from ſome Things I obſerved in the noble Lord's Speech who ſpoke laſt, my Suſpicions begin to be a little confirmed. The noble Lord is pleaſed to entertain a more favourable Opinion of me than I deſerve, but I muſt beg his Lordſhip's pardon when I ſay that he has miſapprehended my Meaning. I did not mean, my Lords, to make any Motion, nor ſo much as to ſtart any Difficulty; all I intended was to give the noble Duke who delivered the Papers, or any other who has the Honour to be in his Majeſty's Councils, an Opportunity of undeceiving the Houſe with regard to a Report, that is now very current, and very prejudicial to his Majeſty's Intereſts. I imagined, my Lords, that every Lord, who is a Friend to the Miniſtry, would have been glad of ſuch an Opportunity to vindicate their Integrity, and that the Miniſters themſelves would have joyfully embraced it. But, my Lords, inſtead of that, to my Surprize, I find it objected, that what I hinted at was not according to *Form*, and therefore that it ought to be diſregarded. My Lords, I did not intend to make a *formal* Motion; I thought it looked much better not to do it, becauſe what is done in conſequence of a formal Motion, carries an Air of Conſtraint along with it, and lays a Miniſter under an Obligation to comply; whereas, when he readily and chearfully takes the Hint, and vindicates his own and the Nation's Honour, he removes at once all Suſpicion, and leaves a very favourable Impreſſion of his own Conduct.

'I am as much for keeping to our Forms, my Lords as the noble Lord who ſpoke laſt, or any other Lord in this Houſe; but, my Lords, I am far from thinking them equally eſſential on all Occaſions. The Papers that are now communicated to the Houſe by the noble Duke were not communicated in conſequence of any Addreſs to his Majeſty, and therefore, my Lords, the noble Duke may regularly, without waiting for any ſuch Addreſs, if his Grace pleaſes, inform the Houſe, if any Papers relating to this Convention, beſides thoſe now given in, have been ſubſcribed by our Miniſtry

Ann. 12 Geo. II. 1738-9.

Miniſtry, or by that of *Spain*. I do not mean, my Lords, thoſe Papers that muſt have neceſſarily preceded the ſigning the Convention, but thoſe that may be immediately connected with it: Papers, my Lords, upon the Validity of which this Convention is, perhaps, to ſtand or fall. If any ſuch exiſt, I humbly preſume, none of your Lordſhips can doubt of their being abſolutely neceſſary to be laid before us.

'I am very ſenſible, my Lords, that we have no Right to require the noble Duke to give a full and explicit Anſwer to this; but if his Grace does, it will ſave the Houſe a great deal of Time; and I am ſo much convinced of his Grace's Honour and Integrity, that I, and every Lord, I believe, of the Houſe, will be determined by what his Grace ſhall ſay on that Head. As to violating an Oath of Secrecy, my Lords, I think there is no Danger of that; for if there is any Paper ſuch as I have mentioned, it muſt be ſoon known to all the World, and it is already known to a great many. It is no Tranſaction of his Majeſty's Council, and the owning or diſowning ſuch a Thing can never affect his Grace as a Counſellor.'

The Duke of *Newcaſtle*.

Duke of *Newcaſtle*.

'My Lords, your Lordſhips muſt be ſenſible what a Hardſhip I am laid under by being obliged to ſpeak upon this Occaſion. The noble Lord who ſpoke laſt has put it upon me to anſwer a Queſtion, which I conceive the noble Lord, as a Member of this Houſe, has no Right to aſk, and I, as a Miniſter, am under no Obligation to anſwer. I thought that what was urg'd by the noble Lord who ſits over-againſt me, was ſufficient to have prevailed upon the noble Lord who ſpoke laſt, to have puſh'd this Affair no farther. I have, by his Majeſty's Order, laid before your Lordſhips the Convention, with its ſeparate Articles and Ratifications. His Majeſty's Intention in giving theſe Orders was, that your Lordſhips might thereby be enabled to form a right Judgment of this Tranſaction. If any other Papers had been requiſite for this Purpoſe, your Lordſhips need not doubt of his Majeſty's Willingneſs to communicate them to the Houſe. As no ſuch, my Lords, have been communicated, your Lordſhips may be very well aſſur'd that thoſe now given in are ſufficient for all the Purpoſes mentioned by the noble Lord who ſpoke laſt.

'But, my Lords, as the noble Lord ſeems to expect from me ſome more poſitive Declaration as to this Matter, I am very willing to go as great a Length as is conſiſtent with the Cha-

racter I have the Honour to bear. And, my Lords, give me leave to aſſure your Lordſhips, that the Papers now laid before you are the only Papers that have been ſubſcribed by our Miniſters at the Court of *Spain* relating to the Concluſion of the Convention. This, my Lords, I take upon me to affirm to your Lordſhips, and I hope this Anſwer will be ſatisfactory to the Houſe. If any other Paper was ſign'd by our Miniſters on that Head, it has not yet come to my Knowledge, nor I believe of any Lord in the Honſe, and I dare venture to ſay, that they could not have been ſo long concealed.'

Ann. 12 Geo. II. 1738-9.

The Lord *Carteret.*

'My Lords, I think the Houſe is very much obliged to the noble Duke who ſpoke laſt: His Grace knows too much of this Tranſaction to be miſtaken; and, for my own part, I have no manner of Doubt, that the Papers now given in to the Houſe are all the Papers that were ſign'd on the part of our Miniſtry. My Lords, I never doubted of that; but I wiſh the noble Duke had, with the ſame Frankneſs, declared if he knew of any Paper relating to, and immediately connected with this Convention, that was ſign'd on the part of *Spain*, and tranſmitted to our Court. If the noble Duke will affirm, that he knows of no ſuch Paper, my Doubts, my Lords, are at an end. But, my Lords, if his Grace ſhall make any Difficulty to do this, I ſhall immediately conclude, that ſome ſecret Meaſure, ſome private Tranſaction, not fit to be communicated to the World, nor laid before your Lordſhips, has been entered into: I ſhall conclude, my Lords, that however ſollicitous we have been to procure from *Spain* this Convention, yet we could not even have procured that, had we not made ſome private Conceſſions, that deſtroy all the ſeeming Advantages which we are to reap by this Convention. My Lords, I do not know what this Convention is, I have heard it both blamed and approved: But let its Stipulations be never ſo much in our Favour, I, my Lords, will look upon them as mere Grimace, unleſs the whole of the Tranſaction be laid before your Lordſhips. I ſhall not trouble your Lordſhips any further on this Head. I hope I have ſufficiently explained to your Lordſhips my Meaning; but I hope no Lord will be for our entering into the Conſideration of this Convention, before he is certainly informed of every material Circumſtance that has any Relation to it.'

Lord *Carteret.*

The

Ann. 12 Geo. II. 1738-9.

The Duke of *Newcaſtle.*

Duke of *Newcaſtle.*

'My Lords, I thought I had before ſufficiently obviated all the Doubts that the noble Lord entertained upon this Occaſion. I imagined, my Lords, that it was ſufficient for the Satisfaction of the Houſe, if I declared, that the Papers given in, were all the Papers that have been ſigned by our Miniſters at the Court of *Spain*, relating to the Concluſion of this Tranſaction. I believe it is pretty well underſtood, that if our Miniſters, either here or at that Court, have ſign'd no other Paper, there is no other Paper that can affect this Convention. If, my Lords, no other Paper can affect this Convention, but thoſe now deliver'd in to your Lordſhips, I humbly conceive, that your Lordſhips have all neceſſary Lights towards judging aright of this Tranſaction.'

The Lord *Carteret.*

Lord *Carteret.*

'My Lords, I ſhould not have again troubled your Lordſhips upon this Subject, were I not ſorry to find that I have been ſo unfortunate as not to explain myſelf clearly enough to be intelligible to the noble Duke. A Paper, my Lords, though only ſign'd by one of the contracting Parties, in a Negotiation of this kind, may, in certain Caſes, and attended with certain Circumſtances, be as binding upon the Party not ſigning, as if they had actually ſign'd it. I don't know, my Lords, if there is any ſuch Paper relating to this Convention now exiſting, far leſs do I know in what Terms it is conceiv'd, or in what Manner it was deliver'd. But whether there is, or is not, it is certainly reaſonable that we ſhould be acquainted with the Import of every Paper connected with this Tranſaction, or that thoſe without Doors ſhould be made eaſy on that Head. The Doubt therefore, which, with great Submiſſion, I want to be reſolv'd in, is, Whether any Paper relating to this Convention, and declaring it void, if the Terms contain'd in that Paper were not comply'd with, was at any time deliver'd by the Miniſters of *Spain* to thoſe of *Great-Britain?*'

The Duke of *Newcaſtle.*

Duke of *Newcaſtle.*

'My Lords, I have nothing to add to what I have already declar'd to your Lordſhips, but that there was, indeed, a Paper given to our Miniſters by that of *Spain*, relating to the Affairs of the *South-Sea*-Company. This Paper, my Lords,

Lords, relates to a private Tranſaction betwixt the *Spaniards* and that Company; and I could never have imagined that it could have created ſuch Apprehenſions in any body, as the noble Lord ſeems to expreſs. That Company, my Lords, have many Tranſactions with the Court of *Spain*, and if ſome Miſunderſtanding ſometimes happens betwixt them, it is not at all to be wonder'd at; but we can never ſuppoſe that their private Tranſactions, and the Concerns of the Nation, depend upon one another. The *Spaniſh* Miniſters might, if they had pleaſed, have ſent fifty Papers to our Miniſters on that Head, but I never imagin'd that any Lord would have thought it material that theſe Papers ſhould be communicated to this Houſe. The Paper, or Proteſt, or Declaration, call it what you pleaſe, that is now in queſtion, paſs'd through my Hands, and was ſome Days ago tranſmitted to the Company. If any of your Lordſhips are of Opinion that it ſhould be laid before the Houſe, I ſhall very readily concur with the Motion. My Lords, I will go farther, I will undertake to have it deliver'd to your Lordſhips, as the Papers now given in have been, without any motion being made for that Purpoſe; though, my Lords, I don't think it at all material, whether it is laid before your Lordſhips or not.'

The Lord *Carteret*.

Lord *Carteret*.

'My Lords, I now ſtand up to make a Motion; but I think it very proper to return my Acknowledgments to the noble Duke, for condeſcending ſo readily to anſwer the Doubt I had propos'd. It was, my Lords, with the greateſt Diffidence in the World, that I mentioned it to your Lordſhips; and, my Lords, it is not without a ſecret Satisfaction, that I obſerve, there was at leaſt a Foundation for my Suſpicions. Therefore, my Lords, as the noble Duke has promis'd, that the Paper in queſtion ſhall be communicated to the Houſe, I humbly move, That the Convention, together with the ſeparate Articles, and the ſeveral Ratifications, concluded betwixt their *Britannic* and Catholic Majeſties, may be read on *Tueſday* next.'

The Earl of *Strafford* ſpoke next as follows,

Earl of *Strafford*.

'My Lords, It is with a kind of Surprize that I have heard what paſs'd betwixt that noble Duke and the noble Lord who ſpoke laſt. In the mean time, it is no hard Matter to foreſee, that this Convention muſt employ a great

Ann. 12 Geo. II. 1738-9.

deal of our Time. The noble Lord who ſpoke laſt has ſo penetrating a Head, his Intelligence is ſo good, and he has been ſo long uſed to Affairs of this kind, that I have no Doubt his Lordſhip is already acquainted what the Terms of this Convention are. The noble Duke, my Lords, beſides all theſe Advantages, has that of having actually ſeen this Tranſaction, and, no doubt, has had a great Hand in concluding it; ſo that I do not wonder if both theſe noble Lords are for delaying our reading it for ſome Days longer. But, my Lords, as I own my Comprehenſion is but very ſmall, and my Curioſity very great, I think we cannot do better than to have it now read for the firſt time, and to delay the ſecond Reading to the Day moved by the noble Lord. This, my Lords, in my Judgment, would have two good effects: In the firſt place, Lords can ſee what the Nature and Tendency of this Convention are, and they who are hitherto unacquainted with it, will have ſome Time to make Reflections upon it, and will come more ripe for debating it, if there is Occaſion, on the ſecond and third Reading. In the next place, my Lords, no Lord here can be ignorant that very odd things have been ſaid, and, I believe, very groundleſs Surmiſes have been ſpread abroad, with regard to this Convention. Theſe Reports, my Lords, cannot fail to have made a conſiderable Impreſſion on the Minds of many of his Majeſty's Subjects; and the longer, my Lords, ſuch Impreſſions are ſuffered to remain, the more difficult it is to remove them. Therefore, my Lords, as I believe the Convention will very much diſappoint the mean Opinion the World has now of it, I think the ſooner it is made known to the public, the better. This, my Lords, is my Opinion; I aſk Pardon if I am in the wrong; I do not know the noble Duke's or the noble Lord's Motives for delaying the Reading the Convention; I have not the Honour to be in either of the noble Lords Secrets. I ſpeak my own Sentiments; I ſpeak after no body. And, beſides the Reaſons, my Lords, I have given for reading the Convention juſt now, I have another, which is the gratifying my own Curioſity, which, I own to your Lordſhips, is, upon this Occaſion, wound up to a very high Pitch.'

Convention read for the firſt time.

This Motion was thought ſo very reaſonable, that the former Motion was retracted, and the Convention was read for the firſt time; which, together with the two ſeparate Articles, was as follows:

¶ Whereas

Ann. 12 Geo. II. 1738-9.

A Copy thereof.

'Whereas Differences have ariſen, of late Years, between the two Crowns of *Great-Britain* and *Spain*, on account of the Viſiting, Searching, and Taking of Veſſels, the Seizing of Effects, the Regulating of Limits, and other Grievances alledged on each Side, as well in the *Weſt-Indies*, as elſewhere; which Differences are ſo ſerious, and of ſuch a Nature, that, if Care be not taken to put an entire Stop to them for the preſent, and to prevent them for the future, they might occaſion an open Rupture between the ſaid Crowns: For this Reaſon his Majeſty the King of *Great-Britain*, and his Majeſty the King of *Spain*, having nothing ſo much at heart as to preſerve and corroborate the good Correſpondence which has ſo happily ſubſiſted, have thought proper to grant their Full Powers, *viz.* his *Britannic* Majeſty to *Benjamin Keene*, Eſq; his Miniſter-Plenipotentiary to his Catholic Majeſty, and his Catholic Majeſty to Don *Sebaſtian de la Quadra*, Knight of the Order of *St. James*, Counſellor of State, and Firſt Secretary of State and of the Diſpatches; who, after previouſly producing their Full Powers, having conferred together, have agreed upon the following Articles.

'Art. I. Whereas the ancient Friendſhip, ſo deſirable and ſo neceſſary for the reciprocal Intereſt of both Nations, and particularly with regard to their Commerce, cannot be eſtabliſhed upon a laſting Foundation, unleſs Care be taken, not only to adjuſt and regulate the Pretenſions for reciprocal Reparation of the Damages already ſuſtained, but, above all, to find out Means to prevent the like Cauſes of Complaint for the future, and to remove abſolutely, and for ever, every thing which might give Occaſion thereto; it is agreed to labour immediately, with all imaginable Application and Diligence, to attain ſo deſirable an End; and for that Purpoſe there ſhall be named on the part of their *Britannic* and Catholic Majeſties reſpectively, immediately after the ſigning of the preſent Convention, two Miniſters-Plenipotentiaries, who ſhall meet at *Madrid* within the Space of ſix Weeks, to be reckoned from the Day of the Exchange of the Ratifications, there to confer, and finally regulate the reſpective Pretenſions of the two Crowns, as well with regard to the Trade and Navigation in *America* and *Europe*, and to the Limits of *Florida* and of *Carolina*, as concerning other Points, which remain likewiſe to be adjuſted; the whole according to the Treaties of the Years 1667, 1670, 1713, 1715, 1721, 1728, and 1729, including That of

Ann. 12 Geo. II. 1738-9.

the Aſſiento of Negroes, and the Convention of 1716; and it is alſo agreed, that the Plenipotentiaries ſo named, ſhall begin their Conferences ſix Weeks after the Exchange of the Ratifications, and ſhall finiſh them within the Space of eight Months.

'Art. II. The Regulation of the Limits of *Florida* and of *Carolina*, which, according to what has been lately agreed, was to be decided by Commiſſaries on each Side, ſhall likewiſe be committed to the ſaid Plenipotentiaries, to procure a more ſolid and effectual Agreement; and during the Time that the Diſcuſſion of that Affair ſhall laſt, Things ſhall remain in the aforeſaid Territories of *Florida* and of *Carolina*, in the Situation they are in at preſent, without increaſing the Fortifications there, or taking any new Poſts; and for this Purpoſe, his *Britannic* Majeſty and his Catholic Majeſty ſhall cauſe the neceſſary Orders to be diſpatched immediately after the ſigning of this Convention.

'Art. III. After having duly conſidered the Demands and Pretenſions of the two Crowns, and of their reſpective Subjects, for Reparation of the Damages ſuſtained on each Side, and all Circumſtances which relate to this important Affair; it is agreed, that his Catholic Majeſty ſhall cauſe to be paid to his *Britannic* Majeſty, the Sum of 95,000 *l.* Sterling, for a Balance, which has been admitted as due to the Crown and the Subjects of *Great-Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain*; to the End that the above-mentioned Sum, together with the Amount of what has been acknowledged on the Part of *Great Britain* to be due to *Spain* on her Demands, may be employed by his *Britannic* Majeſty for the Satisfaction, Diſcharge, and Payment of the Demands of his Subjects upon the Crown of *Spain*; it being underſtood nevertheleſs, That it ſhall not be pretended, that this reciprocal Diſcharge extends, or relates to the Accounts and Differences, which ſubſiſt, or are to be ſettled between the Crown of *Spain* and the Company of the * Aſſiento of Negroes, nor to any particular or private Contracts that may ſubſiſt between either of the two Crowns, or their Miniſters, with the Subjects of the other, or between the Subjects and Subjects of each Nation reſpectively; with Exception, however, of all Pretenſions of this Claſs mentioned

* By this is deſcribed what is commonly called the *South-Sea*-Company.

tioned in the Plan preſented at *Seville*, by the Commiſſaries of *Great-Britain*, and included in the Account lately made out at *London*, of Damages ſuſtained by the Subjects of the ſaid Crown, and eſpecially the three Particulars inſerted in the ſaid Plan, and making but one Article in the Account, amounting to 119,512 Piaſters, 3 Reals and 3 Quartils of Plate; and the Subjects on each Side ſhall be entitled, and ſhall have Liberty to have Recourſe to the Laws, or to take other proper Meaſures, for cauſing the aboveſaid Engagements to be fulfilled, in the ſame Manner as if this Convention did not exiſt. Ann. 12 Geo. II. 1738-9.

'Art. IV. The Value of the Ship called the *Woolhall*, which was taken and carried to the Port of *Campechy* in the Year 1732, *the Loyal Charles*, *the Diſpatch*, *the George*, and *the Prince William*, which were carried to the *Havanna* in the Year 1737, and *the St. James* to *Porto Rico* in the ſame Year, having been included in the Valuation that has been made of the Demands of the Subjects of *Great-Britain*, as alſo ſeveral others that were taken before; if it happens, that, in conſequence of the Orders that have been diſpatched by the Court of *Spain* for the Reſtitution of them, Part, or the Whole of them have been reſtored, the Sums ſo received ſhall be deducted from the 95,000 *l.* Sterling, which is to be paid by the Court of *Spain*, according to what is above ſtipulated: It being, however, underſtood, that the Payment of the 95,000 *l.* Sterling ſhall not be, for that Reaſon, in any Manner delayed; ſaving that what may have been previouſly received ſhall be reſtored.

'Art. V. The preſent Convention ſhall be approved and ratified by his *Britannic* Majeſty and by his Catholic Majeſty; and the Ratifications thereof ſhall be delivered and exchanged at *London* within the Space of ſix Weeks, or ſooner, if it can be done, to be reckoned from the Day of the ſigning.

'In witneſs whereof, We the under-written Miniſters-Plenipotentiaries of his *Britannic* Majeſty and of his Catholic Majeſty, by Virtue of our Full Powers, have ſigned the preſent Convention, and cauſed the Seal of our Arms to be affixed thereto. Done at the *Pardo* the 14th Day of *January*, 1739.

B. Keene,
S. de la Quadra.'

Firſt

Ann. 12 Geo. II. 1738-9.

First ſeparate ARTICLE.

'Whereas it has been agreed by the firſt Article of the Convention, ſigned this Day, between the Miniſters-Plenipotentiaries of *Great-Britain* and *Spain*, that there ſhall be named on the Part of their *Britannic* and Catholic Majeſties reſpectively, immediately after the ſigning the above-ſaid Convention, two Miniſters-Plenipotentiaries, who ſhall meet at *Madrid*, within the Space of ſix Weeks, to be reckoned from the Day of the Exchange of the Ratifications; their ſaid Majeſties, to the End that no Time may be loſt in removing, by a ſolemn Treaty, which is to be concluded for that Purpoſe, all Cauſe of Complaint for the future, and in eſtabliſhing thereby a perfect good Underſtanding, and a laſting Friendſhip between the two Crowns, have named, and do by theſe Preſents name, *viz.* his *Britannic* Majeſty, *Benjamin Keene*, Eſq; his ſaid Majeſty's Miniſter-Plenipotentiary to his Catholic Majeſty, and *Abraham Caſtres*, Eſq; his ſaid *Britannick* Majeſty's Conſul-General at the Court of his Catholic Majeſty, his Plenipotentiaries for that Purpoſe; and his Catholic Majeſty, Don *Joſeph de la Quintana*, his Counſellor in the ſupreme Council of the *Indies*, and Don *Stephen-Joſeph de Abaria*, Knight of the Order of *Calatrava*, Counſellor in the ſame Council, and Superintendant of the Chamber of Accounts, who ſhall be immediately inſtructed to begin the Conferences: And whereas it has been agreed by the third Article of the Convention ſigned this Day, that the Sum of 95,000 *l.* Sterling, is due, on the Part of *Spain*, as a Balance to the Crown and Subjects of *Great-Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain*; his Catholic Majeſty ſhall cauſe to be paid at *London*, within the Term of four Months, to be reckoned from the Day of the Exchange of the Ratifications, or ſooner if it be poſſible, in Money, the above-mentioned 95,000 *l.* Sterling, to ſuch Perſons as ſhall be authorized, on the Part of his *Britannic* Majeſty, to receive it.

Second ſeparate ARTICLE.

'Whereas the underwritten Miniſters Plenipotentiaries of their *Britannic* and *Catholic* Majeſties have this Day ſigned, by Virtue of full Powers from the Kings their Maſters for that Purpoſe, a Convention for ſettling and adjuſting all the Demands, on each Side, of the Crowns of *Great Britain* and *Spain*, on Account of Seizures made, Ships taken, *&c.* and

and for the Payment of a Balance that is thereby due to the Crown of *Great Britain*; it is declared, that the Ship called the *Succeſs*, which was taken on the 14th Day of *April* 1738, as ſhe was coming out from the Iſland of *Antigua*, by a *Spaniſh* Guarda Coſta, and carried to *Porto Rico*, is not comprehended in the aforeſaid Convention; and his Catholic Majeſty promiſes, that the ſaid Ship and its Cargo ſhall be forthwith reſtored, or the juſt Value thereof to the lawful Owners; provided that, previous to the Reſtitution of the ſaid Ship the *Succeſs*, the Perſon or Perſons intereſted therein do give Security at *London*, to the Satisfaction of *Don Thomas Geraldino*, his Catholick Majeſty's Miniſter Plenipotentiary, to abide by what ſhall be decided thereupon by the Miniſters Plenipotentiaries of their ſaid Majeſties, that have been named for finally ſettling, according to the Treaties, the Diſputes which remain to be adjuſted between the two Crowns; and his Catholic Majeſty agrees, as far as ſhall depend upon him, that the above-mentioned Ship the *Succeſs*, ſhall be referred to the Examination and Deciſion of the Plenipotentiaries; his *Britannic* Majeſty promiſes likewiſe to refer, as far as ſhall depend upon him, to the Deciſion of the Plenipotentiaries, the Brigantine *Sancta Thereſa*, ſeized in the Port of *Dublin*, in *Ireland*, in the Year 1735. And the ſaid underwritten Miniſters Plenipontentiaries declare by theſe Preſents, that the 3d Article of the Convention ſigned this Day, does not extend, nor ſhall be conſtrued to extend to any Ships or Effects that may have been taken or ſeized ſince the 10th Day of *December* 1737, or may be hereafter taken or ſeized; in which Caſes, Juſtice ſhall be done according to the Treaties, as if the aforeſaid Convention had not been made; it being however underſtood, that this relates only to the Indemnification and Satisfaction to be made for the Effects ſeized, or Prizes taken, but that the Deciſion of the Caſes, which may happen, in order to remove all Pretext for Diſpute, is to be referred to the Plenipotentiaries, to be determined by them according to the Treaties.

Ann. 12 Geo. II. 1738-9.

'Theſe ſeparate Articles ſhall have the ſame Force as if inſerted Word for Word in the Convention ſigned this Day: And ſhall be ratified in the ſame Manner.

'In Witneſs whereof, We the underwritten Miniſters Plenipotentiaries of his *Britannick* Majeſty, and of his Catholick Majeſty, by Virtue of our full Powers, have ſigned the preſent ſeparate Articles, and have cauſed the Seals of our Arms to be affixed thereto. At the *Pardo*, Jan. 14, 1739.

B. Keene, *Sebaſtian de la Quadra.*

The

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The Convention and ſeparate Article, were ratify'd under the Hand of his *Britannic* Majeſty, *Jan.* 24; and of his Catholic Majeſty *January* 15. *N. S.* 1739, and were concluded purſuant to full Powers dated at St. *James's*, *Nov.* 9, 1738, at the *Pardo*, *January* 10, 1739.

Copy of the Declaration made on the Part of the King of Spain, *before he ratify'd the Convention.*

'*Don Sebaſtian de la Quadra*, Counſellor and firſt Secretary of State of his Catholic Majeſty, and his firſt Plenipotentiary for the Convention which is treating with the King of *England*, by Order of his Sovereign, and in Conſequence of his repeated Memorials and Conferences that have paſs'd with *Don Benjamin Keene*, Miniſter Plenipotentiary of his *Britannic* Majeſty, and having agreed therein with reciprocal Accord, that the preſent Declaration ſhall be made as the eſſential and preciſe Means to overcome the ſo much debated Diſputes, and, in order that the ſaid Convention may be ſigned, does declare, in due Form, that his Catholic Majeſty reſerves to himſelf, in its full Force, the Right of being able to ſuſpend the Aſſiento of Negroes, and for diſpatching the neceſſary Orders for the Execution thereof, in caſe the Company does not ſubject herſelf to pay, within a ſhort Term, the 68,000*l.* Sterling, which ſhe has confeſs'd is owing on the Duty of Negroes, according to the Regulation of 52*d. per* Dollar, or on the Profits of the Ship *Caroline*; and likewiſe declare, that under the Validity and Force of this Proteſt, the ſigning of the ſaid Convention may be proceeded on, and in no other Manner. Wherefore, upon this firm Suppoſition, and that it may not be eluded on any Motive or Pretext whatſoever, his Catholic Majeſty has been induced thereto.

Pardo, 10th of *Jan.* 1739.

Don *Sebaſtian de la Quadra.*'

February 9. The Lord *Delawar* ſtood up in the Houſe of Lords and ſpoke as follows:

Lord *Delawar*'s Speech againſt a Satire, intitled MANNERS.

'My Lords, it is with an equal mixture of Concern and Indignation, that I obſerve the beſt and the moſt valuable Privileges of the Subjects proſtituted to the moſt infamous Purpoſes.

Purpoſes. The Hand of the Legiſlature has been, as yet, tender of reforming this Abuſe, leſt, in endeavouring to reſtrain Licentiouſneſs, Liberty might be affected. But, my Lords. the Reaſon of my riſing up is, perhaps, one of the moſt flagrant inſtances of Abuſe and Virulence that this Age has ſeen. It is true that I believe no Man in the Nation will ſay, that the leaſt Ground has been afforded by the noble Lords, whoſe Characters are attack'd in the infamous Libel I have in my Hand, for treating them in ſuch a manner as the Libeller has done; but, my Lords, if we ſhould ſuffer ſuch flagrant Inſults upon our Order and Dignity to paſs uncenſur'd, it will be thought without Doors, either that we deſerve them, or that we dare not puniſh them. My Lords, it is neceſſary to make ſome Examples of our Juſtice ſometimes; your Lordſhips have a Right to vindicate your own Dignity, and, as you ſee Cauſe, to puniſh thoſe who offend againſt any of the Members of this Houſe. We have many Precedents for this, my Lords, and our Exerciſe of this Power has always had a good Effect.

'I have in my Hand, my Lords, a Paper, entitled, *Manners*; a Satire: By Mr. *Whitehead:* Printed for *R. Dodſley.* at *Tully's Head, Pall Mall:* Which I conceive to be highly reflecting upon the Characters of ſeveral noble Lords in this Houſe; But as our Forms generally direct us to hear what the Parties offending have to ſay for themſelves, I ſhall only, at preſent, make a Motion, That the Author and Printer of this Paper be ordered to attend at your Lordſhips Bar on *Monday* next.'

Accordingly on *Monday, February* 12, the Perſon whoſe Buſineſs it was to ſummon the above Printer and Author having inform'd the Houſe that they both waited at the Door, a Motion was made, that the Paper ſhould be read by the Clerk, which was accordingly done; and the Queſtion being then put, That the ſaid Paper was a falſe, ſcandalous, and malicious Libel, and contained divers Matters highly reflecting upon ſome of the Members of that Houſe, the ſame was unanimouſly agreed to.

The ſaid Satire voted a Libel.

The Author was then ordered to attend; but the Doorkeeper informing the Houſe that he was not there, the above Summoner, or Meſſenger, was called in, and examin'd by the Houſe, if he had duly executed the Order of the Houſe? He anſwer'd, that he had been at the Author's Houſe, and that not finding him at Home, he left the Order for his Attendance with his Maid, who had promiſed to deliver it. It was then moved, That the ſaid Author

Motion for taking the Author into Cuſtody.

Ann. 12 Geo. II. 1738-9.

thor not attending, he ſhould be taken into the Cuſtody of the Uſher of the Black Rod.

Debate thereon.

Upon which the Earl of *Abingdon* ſpoke as follows:

Earl of *Abingdon.*

'My Lords, there is no Lord in this Houſe more averſe to encouraging any Tendency towards a Spirit of Licentiouſneſs, eſpecially when it may be thought to affect any of your Lordſhips, or more ready to give his Vote for puniſhing the Authors, than myſelf: But, my Lords, a Doubt ariſes within me juſt now, from what your Lordſhips Officer told the Houſe. He ſaid, my Lords, that he did not meet with the Author, and that he had left the Order with his Maid. My Lords, my Doubt is, whether we can, conſiſtently with Juſtice, and the Forms of the Houſe, proceed to order this Man into Cuſtody, if the Order for his Attendance was not perſonally ſerv'd upon him.'

The Lord *Delawar.*

Lord *Delawar.*

'My Lords, it is great Matter of Surprize to me, that the noble Lord ſhould entertain the leaſt Doubt upon this Head. If once we ſhould admit it to be neceſſary that every Perſon, who is ordered to attend here, ſhould be perſonally ſummon'd, I believe very few of your Lordſhips Orders would be regarded. It would be eaſy, my Lords, for one who is conſcious that he has done amiſs, to keep out of the way, and to elude the Diligence of your Officer. And what paſſes in this Houſe is not ſo ſecretly tranſacted, but that an Offender may ſoon know the proper time for abſconding. Beſides, my Lords, there is nothing more ordinary than to order Offenders into the Cuſtody of the Uſher of the Black Rod, tho' they have not been perſonally ſerv'd with your Lordſhips Order.'

The Motion agreed to.

Upon this the Motion was unanimouſly agreed to.

The Printer was then call'd to the Bar of the Houſe, and upon the ſeveral Queſtions being put to him, he inform'd the Houſe, that the Author, whoſe Name was prefix'd to the Poem, ſent for him to his Houſe, and that he agreed with him to print the ſaid Poem; that he did not look into the Contents of it, but that imagining there might be ſomething in it, as he ſaw it was a Satire by its Title-page, that might be laid hold of in Law, he inſiſted that the Author ſhould affix his Name to it, and that he then printed it.

Ann. 12 Geo. II. 1738-9.

A Motion being then made, That the Printer ſhould be taken into the Cuſtody of the Uſher of the Black Rod, the Lord *Carteret* roſe up and ſpoke as follows.

A Motion to take the Printer into Cuſtody. Lord *Carteret*.

'My Lords, I don't think myſelf at liberty to vindicate either the Printer's or the Author's Innocence in this Affair, eſpecially as your Lordſhips have already paſs'd your Cenſure upon the Paper that gave riſe to this Motion. But, my Lords, it may not be always expedient to go to the Rigour of Juſtice, eſpecially in a Caſe that may by ſome be thought to affect the Liberty of the Preſs. Therefore I think your Lordſhips ought to temper your Severity to this poor Man, who is ſo unfortunate, as I believe, undeſignedly to fall under your Diſpleaſure. I ſhould be glad to know of any of your Lordſhips, if the Author had appeared, whether your Lordſhips would have proceeded to theſe Extremities againſt the Printer. My Lords, I believe the Houſe would have thought it ſufficient, if our Cenſure had been inflicted upon one of the Perſons concerned; I dare ſay your Lordſhips would have extended your Indulgence a little to this Man, who very probably was drawn in by the Arts of the Author to print this Libel. I beg your Lordſhips would conſider this. It is hard that this Man ſhould ſuffer for another Man's being contumacious; he has, my Lords, ſhewn all due Reſpect to your Lordſhips Order, and it would ſound harſh if your Lordſhips ſhould inflict the ſame Cenſure upon him that you would have inflicted upon the Author, had he appear'd. I am far, my Lords, from excuſing either of them, but I hope the Conſideration of what this Man's Fate would have been, had the Author appear'd, will induce your Lordſhips to mitigate it now. I ſhall make no Motion, my Lords, but I hope what I have thrown out may have ſome Influence with your Lordſhips.'

The Earl of *Abingdon* ſpoke next to the following Purpoſe:

Earl of *Abingdon*.

'My Lords, I believe there are very few, or no Inſtances, wherein your Lordſhips have proceeded with Severity againſt a Printer when the Author was diſcover'd; and I think it would be hard, if your Lordſhips were to make ſuch a Precedent at this Time. In inferior Courts, my Lords, it very ſeldom happens that Printers ſuffer when the Authors are known; and I hope your Lordſhips will, on this Occaſion,

Ann. 12 Geo. II. 1738-9.

ſion, proceed with that Lenity which diſtinguiſhes this Houſe more than all its other Privileges.'

Lord *Lovel.*

Lord *Lovel.*

'My Lords, I ſhould be very willing to ſhew all Indulgence to one in this Perſon's Circumſtances, if I did not think his Offence of ſuch a Nature as to admit of no Mitigation. Libels of this kind are now grown ſo common, and appear with ſo much Impunity attending the Authors, that they require an immediate Check from the Legiſlature. The noble Lords who ſpoke laſt, ſeem'd to think, that as this Man was only the Tool of the Author, therefore we ought to pardon him. My Lords, as we have found the Paper in itſelf to be a Libel, the Printer, in the Eye of the Law, and in Equity too, is as guilty as the Author. Were it not for the Printers, theſe infamous Papers would die before they were made public; it is the printing and publiſhing them that does all the Miſchief. The Libel now in my Hand is of a peculiar Malignancy. It falls upon Characters that are above Envy itſelf to aſperſe, it throws out Inſinuations that none but the moſt corrupted Heart could ſuggeſt; and, my Lords, if we neglected to puniſh every one whom we ſhall find to have had a hand in it, we do an Indignity to ourſelves. My Lords, the Public, in Caſes of of this Nature, are generally favourable to the Offender; but this Libel is of ſo virulent a Nature, that, I dare ſay, there is not a Gentleman in the Kingdom who does not deteſt it. If the Authors and Publiſhers, therefore, of ſuch Scandal, are not puniſh'd, the Public itſelf will blame us, and, indeed, I do not ſee what Character or Reputation is ſafe.'

The Lord Chancellor.

Lord Chancellor.

'My Lords, the Liberty of the Preſs is what I think ought to be ſacred to every *Engliſhman*, and, I dare anſwer for it, will ever be ſo to your Lordſhips. But, my Lords, tho' the Liberty of the Preſs is in every Body's Mouth, yet, I am afraid, there is nothing leſs underſtood than the Nature of that Liberty. My Lords, I have often deſir'd an Opportunity of delivering to your Lordſhips my Sentiments, with regard to the Liberty of the Preſs; and as that Expreſſion has been mentioned in this Debate, I think I cannot have a fairer Opportunity of doing it than the preſent: But I hope your Lordſhips, beforehand, will acquit me of any Affectation to appear ſingular upon this Occaſion. I

do aſſure you, my Lords, I ſhall ſpeak my Sentiments, and what occurs to me from the moſt mature Reflection I am able to make upon the Nature of our Conſtitution and Government. Ann. 12 Geo. II. 1738-9.

'The Liberty of the Preſs, my Lords, is by moſt People, I know, taken for a Liberty to publiſh every Indecency of any kind, againſt the moſt reſpectable Perſons, and the higheſt Characters; and ſo ſtrongly does this Notion prevail, that a Libeller is no ſooner proſecuted, than a Cry is immediately ſet up, that the Liberty of the Preſs is endanger'd. But, my Lords, give me leave to ſay, that if the Liberty of the Preſs conſiſts in Defamation, it were much better we were without any ſuch Liberty. My Notion, my Lords, is that the Words, *The Liberty of the Preſs*, are improperly us'd, to expreſs a Right, which is peculiar to the Preſs, of publiſhing to the World any defamatory Matter to the Prejudice of Superior, Inferior, or Equal. My Lords, the Laws and Conſtitution of *England* know of no ſuch Liberty; for that would be a Liberty deſtructive of all Laws, and all Conſtitutions. How theſe Words came to prevail, was, my Lords, in my Opinion, in this manner: Before the Art of Printing was known in *Europe*, Learning was confined to a very few. At that time, the Tranſcribers and Copiers of Books were a very conſiderable Body of Men, and were under particular Regulations by Law. When Printing was diſcover'd, theſe Reſtrictions fell of courſe, and then every Man was at liberty to communicate, at an eaſy Expence, his Labours and Thoughts upon any Subject to the whole World. This, my Lords, was found ſo very convenient, that thence aroſe the Words, *The Liberty of the Preſs*. That this is the natural Original of theſe Words, my Lords, will appear from conſidering the Nature of our Laws, with regard to defamatory Libels before Printing was diſcover'd, compar'd with what it is now. My Lords, before the Diſcovery of Printing, very ſtrong Statutes were made againſt Defamation, which very Statutes are ſtill in Force; and no Man, my Lords, will ſhew me any one Statute upon this Head, that was in Force before the Diſcovery of Printing, which has been ſince repeal'd. From this, my Lords, I think it evident, that by the Expreſſion, *The Liberty of the Preſs*, can never be underſtood any Liberty which the Preſs acquir'd, and which was unknown before the Diſcovery of Printing. This, I hope, your Lordſhips will find a fair and juſt Way of Reaſoning; and, indeed, the only Way on which we can reaſon on this Subject. If any Body, my Lords, is of Opinion, that Authors acquir'd any new Privileges or Liberties when Printing was diſcover'd, he ought to prove, my Lords,

either

Ann. 12 Geo. II. 1738-9.

either that the old Statutes on that Subject were repeal'd, or that new ones were made in its favour; which, I will venture to say, no Man can do. It is true, my Lords, that, in some Reigns, very great Restraints have been laid upon the Press, and very great Severities have been inflicted on Authors and Printers, for publishing that which would now pass current. But this never proves that the Laws relating to Defamation were bad Laws; it only proves that they were abused by Power. I am very sensible, my Lords, of how much Use the Press was at the Time of the Revolution; but the Authors who wrote at that Time on the Side of Liberty, advanc'd nothing that was not agreeable to the Constitution; they were warranted by Law for what they wrote, and they had the Sense of the Nation on their Side. Besides, my Lords, there is a great Difference betwixt an Author's writing on a speculative Subject, on which he thinks he has something to communicate that may be of Service to the World, and an Author's falling foul on all Mankind because they are not of his way of Thinking. The Authors on the Side of the Revolution, my Lords, communicated their Sentiments with the greatest Deference to the Persons and Characters of their Superiors, unmix'd with personal Calumnies, or virulent Reflexions. Therefore, my Lords, it is a groundless Cry against the Government, when a Libeller is punish'd, to compare the Conduct of this Government to that before the Revolution, unless those Gentlemen can prove, to the Satisfaction of a Jury, that they write with as much Caution, and with as much Decency, as the Writers who in the Reigns of King *Charles* II. and King *James* II. wrote on the Principles of Liberty.

'Having said thus much, my Lords, I cannot help taking Notice of another very common Mistake, with regard to the Freedom which some Gentlemen think themselves entitled to, in censuring the Conduct of their Superiors. My Lords, this is a Freedom unknown to our Constitution, and subversive of our known Statutes, because a great part of our Laws are intended for the Relief of any Person who is injur'd by another. Any Person, my Lords, who is injured by another, were this last the greatest Subject in the Kingdom, has the Courts of Justice open for his Relief, and he has a Jury who will do him Justice according to the Nature of his Case, and then the Law is satisfied. No Man, my Lords, is at liberty, by our Laws, to carry his Resentment farther, because, if he carries it farther, he carries it beyond Law. From this, my Lords, it is plain, that whoever attempts to attack any Man's Character, by writing or publishing defamatory Libels, is guilty of a Trespass, and can plead no Mitigation of his Crime, either from

from the Nature of our Conſtitution, or the Tenor of our Laws. My Lords, I am ſenſible this Doctrine ſounds odd, at a time of day when the People, under the Notion of Liberty, are quite intoxicated with a Spirit of Licentiouſneſs. But, I know, I ſpeak in an Aſſembly where nothing is approv'd or condemn'd before it is thoroughly weigh'd; and the longer, my Lords, your Lordſhips weigh what I have advanc'd, I am convinc'd, your Lordſhips will think it more reaſonable. The Libel we are now upon is of the more virulent Quality, in that it was impoſſible any of the Subjects of the Libel could give any juſt Ground of Provocation to the Author. My Lords, I do not believe any of the noble Lords, attack'd by this impudent Libeller, ſo much as know him by Sight, far leſs have had any manner of Opportunity to injure him. This, my Lords, is an Aggravation of his Offence; ſuch a Behaviour can proceed from nothing but a Wantonneſs of Malice, and therefore, I think, deſerves all the Severity of your Lordſhips Cenſure.

The Lord *Talbot*.

Lord *Talbot*.

'My Lords, the Liberty of the Preſs is what, I hope, never to hear diſtinguiſh'd away. I believe every Lord here is ſenſible that it is in a great meaſure owing to the Liberty of the Preſs, that this Day we enjoy any Liberty at all. I do not ſpeak in Defence of the Author or Printer of this Paper, for, if it is ſuch a Libel as ſome Lords have repreſented it, I think no honeſt Man will defend them. But, my Lords, the noble Lord who ſpoke laſt, has himſelf furniſh'd me with what, I think, is a very ſtrong Argument, why we ought not to proceed againſt them in this manner. The noble Lord ſaid, That when the meaneſt Subject was aggriev'd by the greateſt Man in the Kingdom, the Courts of Juſtice are open for his Relief from them. My Lords, if it is ſo, in Heaven's Name, let thoſe aggriev'd by this Libel have their recourſe to the inferior Courts of Juſtice, and don't let ſuch a Charge lie againſt us, that we were Judges, Juries, and Parties in the ſame Affair.'

The Queſtion being put, it was carried in the Affirmative, on a Diviſion of 33 againſt 72.

The Queſtion carried in the Affirmative.

February 22. Being the Day appointed by the Lords for taking the Convention into their Conſideration, before their Lordſhips entered upon that Buſineſs, the Duke of *Newcaſtle* laid before them, a Copy of the King of *Spain*'s Declaration relating

Motion for examining the *South-Sea* Directors, and Debate thereon.

Ann. 12, Geo. II. 1738-39.

relating to the *South-Sea* Company, before-mentioned; which Declaration being read in the Houſe, the Lord *Bathurſt* ſtood up and ſpoke as follows:

Lord *Bathurſt*.

'My Lords, It is with the greateſt Concern and Reluctancy imaginable, that I riſe up to ſpeak to your Lordſhips on this Occaſion; at the ſame time I can't help congratulating the noble Lord who ſits by me, on the ſeaſonable Hint he threw out the Day when the Convention was laid before this Houſe. Thoſe Hints, my Lords, have given us, have given the whole Kingdom, a very great Light. We now ſee upon what Terms *Spain* abated ſo far of the Haughtineſs with which ſhe has always treated this Nation, as to conclude any Negotiation. Before I heard this Declaration read, I had conſidered the Convention with all the Attention I am capable of beſtowing; and, my Lords, even then I could not find any one Stipulation in it, I could not ſee one Article that is not, in my poor Judgment, both Diſadvantageous and Diſhonourable to this Nation. But, my Lords, when I conſider this Convention as clogged with this Proteſt from *Spain*; when I conſider it as attended with the higheſt Marks of Inſolence and Indignity to this Kingdom on the Part of that Power; I know not, my Lords, in what Light to look upon it. I know not what Words I ſhall make uſe of, or what Sentiments to expreſs. Shall we call this Convention, my Lords, a Treaty? No, a Treaty is an Act in which the Stipulations are mutual. This Convention is an Act wherein every Thing is granted by the one Side, and nothing ſtipulated on the other: But, my Lords, I will not anticipate the Debate; it may be, I have ſaid too much already; perhaps, they who are more in the Secret of Affairs, when the Convention comes to be under Conſideration, may give me reaſon to alter my Opinion: I ſhall therefore confine what I have to ſay to a few Arguments, in order to ſupport a Motion which I ſhall beg the Liberty to make to your Lordſhips.'

'The Affairs of a Public Company, and the Affairs of a whole Kingdom are, in my Opinion, to be conſidered as very diſtinct the one from the other. The Intereſts of all the Subjects in the Kingdom ought, indeed, to be very dear to the Crown, but more eſpecially the Intereſts and Rights of Trading Companies. Theſe Rights are derived from the Crown, and while the Crown ſupports them, it ſupports its own Rights; when it gives them up, my Lords, it gives up its own Rights; it gives up the Rights of the Nation. But there is a great Difference betwixt the particular Intereſts, and the general Rights of a Company. The

parti-

particular Intereſts of a Company are in the Hands of private Men, appointed by that Company to take care of them; they ought to have no Relation to the Public Negotiations of this Nation, far leſs ought theſe laſt to have any Dependance upon them. This Proteſt, my Lords, makes the Convention, which ought to have been a ſolemn Treaty, no farther valid than as a private Negotiation betwixt the King of *Spain* and the *South-Sea* Company ſhall turn out. Let his Catholic Majeſty's Demand be ever ſo unjuſt; let his Claim be ever ſo exorbitant, it muſt be ſatisfied, otherwiſe this Public Negotiation muſt, it ſeems, be invalid. But, my Lords, this Inſolence of *Spain* does not at all ſurprize me; for I ſhould be ſurpriz'd at nothing which that Court could do, unleſs I heard that they had done an Act of Equity and Juſtice: What ſurprizes me moſt, my Lords, is, that our Miniſter ſhould ſo far forget his Character as to accept of this Proteſt or Declaration (call it what you will) and that he ſhould, with *reciprocal accord*, agree, that the Declaration we have now heard, ſhould be made the eſſential, preciſe Means of overcoming the Difficulties that obſtructed the Concluſion of the Convention. Ann. 12 Geo. II. 1738-9.

'Mr. *Keene* is, I know, Agent for the *South-Sea* Company, as well as Plenipotentiary from our Court. Nothing in the World, my Lords, ought to have been more diſtinct than theſe Characters. As Agent for the *South-Sea* Company, he was to ſollicit their Concerns at the Court of *Spain:* He was to take Care of their Intereſts; he was to tranſmit to his Conſtituents a proper State of every Thing that paſſed. As a Public Miniſter, my Lords, he was to take care that no Violation ſhould be committed of any of the Treaties upon which the Rights of that Company are founded. The uniting of theſe two Characters in his Perſon was of great Uſe to him; he was ſure not to be impoſed upon by Miſrepreſentations; he was ſure the Agent and the Miniſter would not run counter to one another; and that the one would always be ſupported by the other. But, my Lords, it ſhould appear by this Declaration, that the Miniſter has ſo far forgot himſelf, as to conſent to the making the Validity of this Declaration the Condition of the Validity of the Convention. Not only ſo, my Lords, but he has conſented with the ſame *reciprocal Accord*, to own his Catholic Majeſty's Right to ſuſpend the *Aſſiento* Contract. Thus, my Lords, he has agreed, that the Public Tranſactions of this Nation ſhall depend upon the Execution of the Private Engagements of the *South-Sea* Company.

'My Lords, I ſhall ſay no more on this Subject; only I muſt obſerve to your Lordſhips, that either the Court of *Spain* muſt have been guilty of the greateſt Inſolence and In-

Ann. 12 Geo. II. 1738-9.

juſtice to this Nation, and the Miniſter of the higheſt Breach of Truſt; or the *South-Sea* Company muſt have been guilty of the greateſt Injuſtice to the Crown of *Spain*. However that ſtands, my Lords, we are at preſent very much in the Dark, and we muſt remain ſo, till ſuch time as we are regularly informed by what Means this Debt was contracted, and how Affairs ſtand betwixt the *South-Sea* Company and his Catholick Majeſty. This, my Lords, I ſay, is the only Means of our coming to a Knowledge of this Affair; the proper Information that we are to have, muſt be from the the *South-Sea* Company themſelves; we are not to truſt to Miniſters for our Information; we are not to truſt to thoſe employed by Miniſters. We are to have our Information from the firſt hand; we ſhall be then leſs liable to be impoſed on, and more able to give a Judgment in this Matter. In ſhort, my Lords, I think it needleſs to trouble your Lordſhips with many Arguments in ſupport of the Motion which I am to make: I am perſuaded, the reaſonableneſs of the Thing itſelf will ſpeak for it; therefore I humbly take the Liberty to move your Lordſhips, That a Day be appointed for examining the Directors of the *South-Sea* Company, touching the Sum of 68,000 *l.* mentioned in the Declaration given to the *Britiſh* Miniſter, ſigned at the *Pardo*, *January* the 10th, which Sum is, by his Catholic Majeſty, claimed as a Debt due to him by the ſaid Company: And that the Directors of the *South-Sea* Company be ordered to attend this Houſe for that Purpoſe,'

Upon this the Lord *Hervey* roſe up, and ſaid as follows:

Lord *Hervey*.

'My Lords, I ſhall not differ much from the noble Lord who ſpoke laſt, with regard to the Treatment which the Subjects of this Nation have received from the *Spaniards*; but I am ſurprized to find that his Lordſhip ſuppoſes their agreeing to treat with us on the Footing ſtipulated by the Convention, is an Aggravation of that Treatment. If, my Lords, the Provocations of this Nation has received from *Spain* were ſo very great; if the Haughtineſs with which ſhe has all along behaved, was ſo very exceſſive as the noble Lord has been pleaſed to repreſent it, we cannot ſuppoſe that her Miniſtry, who certainly are ſenſible they are no Match for us by themſelves, were without well-grounded Hopes of being aſſiſted and ſupported by a Power more formidable than their own. If our Miniſtry therefore have taken ſuch wiſe Precautions, as to ſhew them that we are not to be intimidated, by any Conſideration whatſoever, from obtaining Satisfaction for our Loſſes, and ample Security againſt future Encroach-

croachments: If, in Conſequence of this, they have been brought to treat, I think, my Lords, it is one very great Point gained. It ſhews at leaſt, that they are cured of their Preſumption, and that the Reſolution of our Government has had ſuch an Effect as to bring them to treat. I don't ſpeak, my Lords, with regard to the Merits of the Convention itſelf, this is not a proper Time to enter into the Particulars of that Treaty, your Lordſhips have appointed a Day to take it into Conſideration; I only ſpeak with Regard to the Effect of our late Meaſures. Ann. 12 Geo. II. 1738-9.

'As to the Behaviour of Mr. *Keene*, which the noble Lord has ſo much inſiſted on, I think this is not a proper Time to canvaſs it. If he has ſo ſhamefully betray'd his Truſt, if he has acted ſo inconſiſtently with his Character, as the noble Lord hath accuſed him of having done, the Nation and Parliament will undoubtedly bring him to Juſtice; and I am ſure, my Lords, I ſhall be the firſt to agree to any Cenſure which your Lordſhips ſhall think fit to inflict on him. But, my Lords, it is my Opinion, though I own a very unpopular one at preſent, that we ought always to preſume the beſt of of thoſe to whoſe Hands his Majeſty has thought fit to entruſt the Concerns of the Nation, till we are well informed that they have deſerved to be blamed.

'I can agree with the noble Lord, that the Character of Agent from the *South-Sea* Company, and that of Plenipotentiary from the Crown of *Great Britain*, are very different from one another, and that they ought by no Means to be confounded one with the other; but, my Lords, till I am better informed, I do not think my ſelf at Liberty to think that that Miniſter deſerves all the hard Things to be ſaid of him, which the noble Lord has thrown out. It is very difficult, my Lords, for this Houſe to judge of the Reaſons which may have determined Mr. *Keene*, as a public Miniſter, to accept this Declaration; and it is ſtill harder to judge of his Motives as Agent for the *South-Sea* Company. The King of *Spain*, and that Company, my Lords, muſt have a great many Dealings with one another; it is no wonder if their Affairs are very often entangled together; and therefore your Lordſhips, give me leave to ſay it, are not the proper Judges of the Reaſons that may ſometimes induce their Agents to uſe Precautions, or to make Conceſſions, that would ſeem very odd if they paſs'd betwixt Man and Man, or one Body of Men and another. 'Tis in the Power of the Court of *Spain* to put that Company under very great Diſadvantages; and they have done it, my Lords, as often as any Rupture, or even the Appearance of a Rupture, has happened betwixt their Court and ours. And, after this, are we to be ſur-

Ann. 12 Geo. II. 1738-9.

priz'd, if theſe Gentlemen take all the Precautions in the World to keep fair with the Court of *Spain?* Eſpecially if we conſider, that they have no Reaſon to think we ought to plunge our ſelves raſhly into a War on every ſlight Miſunderſtanding betwixt it and them. My Lords, if we ſhould, there would not be wanting other Powers of *Europe*, who would be glad to carry on that Trade on the Terms granted to the Company. I don't know, my Lords, but that an Offer of this kind may be one reaſon that induces the *Spaniſh* Court to treat that Company with ſo much Severity. Beſides, my Lords, we are not certain that the Demands of his Catholic Majeſty are abſolutely unjuſt. The Proteſt juſt now read affirms, that the 68,000 *l.* therein demanded is a Debt confeſſed by the Company to be due to his Catholic Majeſty. My Lords, if it is ſo, it muſt be paid, and there is no wonder if the Court of *Spain* inſiſt upon its being paid in the ſtrongeſt Terms.

'Having ſaid thus much, my Lords, in general, with regard to the Nature of the Company's Trade, I ſhall beg leave to ſay a Word or two, in anſwer to what fell from the noble Lord who ſpoke laſt, with regard to the Part which Mr. *Keene* has acted in this Affair. The noble Lord himſelf very juſtly obſerved, that, as Agent for the *South-Sea* Company, he was to ſollicit their Affairs at the *Spaniſh* Court, to take Care of their Intereſts, and to tranſmit to his Principals whatever concern'd them, eſpecially if it was in a Matter of Importance; that, as a Public Miniſter of this Crown, he was to oppoſe any Violation of the Rights on which the Trade of that Company, as Subjects of *Great Britain*, is founded. My Lords, this Diſtinction being laid down, give me Leave to obſerve, that there is another Diſtinction extremely worthy of your Lordſhips notice, that is, the Diſtinction of the Characters of the *Spaniſh* Miniſters. The King of *Spain*, my Lords, is in this Caſe to be looked upon, not only as a Sovereign Prince, but as a conſiderable Merchant. For your Lordſhips know, that by Treaty he is entitled to a large Share, I think one Fourth, of the Profits ariſing from the Company's Trade. Now, my Lords, this being the Caſe, it follows, that his Catholic Majeſty's Miniſters muſt likewiſe be conſidered, not only as the Public Miniſters of his Crown, but as Agents for his mercantile Intereſt. On this account it is, my Lords, that, if theſe two Characters have been confounded together, they have been ſo only on the Part of the *Spaniſh* Miniſtry, who ridiculouſly inſiſt on their Maſter's having it in his Power, as a Sovereign, to ſuſpend the *Aſſiento* Contract, in caſe a Debt is not paid which is due to him as a Merchant. Mr. *Keene*, my Lords, has done no more

more than to accept this Declaration, which, as Agent for the Company, he was obliged to do, it relating immediately to their Concerns. If he had ſigned it, my Lords, he might have juſtly been blamed; but as he has not ſigned it, it can be looked upon as no Act of his, and conſequently he is not anſwerable for it. Ann. 12 Geo. II. 1738-9.

'As to the Motion which the noble Lord has made, I think it would be extremely improper in us to intermeddle ſo far in the private Concerns betwixt the King of *Spain* and the *South-Sea* Company. If the latter is wrong'd, there is no doubt they will, as they have done before, apply to the Crown for Relief; and if the Crown ſhall find the Grounds of their Complaint juſt, they have all the Reaſon in the World to think, that proper Care will be taken of their Intereſt. My Lords, it would be of very dangerous Conſequence, I think it would ſet a very bad Precedent for us to oblige the Directors of a trading Company to produce their Accompt-Books at the Bar of this Houſe. We might thereby occaſion them to diſcover Secrets, which may affect both them and the Nation: For, my Lords, there is no doubt that every trading Body of Men have Secrets, which may be of a very honeſt Nature, and yet it may be not only improper, but unjuſt to divulge them to the World. In ſhort, my Lords, I think that we ought to conſider this Declaration as a Thing entirely independent of the Convention; but if, in the Courſe of our Debate upon the Convention, we ſhall find that there is an abſolute Neceſſity for our examining the Directors of the *South-Sea* Company, it will be then time enough to agree to this Motion. But, my Lords, I think it would be highly improper at this critical Juncture to oblige that Company to expoſe their Books, or to bring them into any Neceſſity of appearing as Parties againſt the King of *Spain*. Therefore I am againſt the Motion.'

The Earl of *Iſla*.

'My Lords, I ſhould not have troubled your Lordſhips at this Time, eſpecially after what has been obſerved by the noble Lord who ſpoke laſt, had I not ſome particular Reaſons for thinking this Motion at preſent very improper. Earl of *Iſla*.

'The Debt which the King of *Spain*'s Miniſter claims by this Declaration is, my Lords, a Debt that has, in ſome Meaſure, been already allow'd of by the *South-Sea* Company; for which Reaſon, my Lords, it ought to be left to the *Spaniſh* Miniſter here, and the Directors of that Company, to ſettle it the beſt Way they can. If your Lordſhips ſhould interpoſe in the Matter, the *Spaniards* might very juſtly

Ann. 12 Geo. II. 1738-9.

juſtly think that the Parliament of *England* deſign'd to make itſelf a Party in an Affair that concerns private Property, and to ſupport that Company in an Act of Injuſtice. I don't by this, my Lords, mean, as if we ought not to take care of the Intereſts of the Subjects of this Nation, if they are attack'd by the Court of *Spain*; I only mean, that we ought not to take Cognizance of an Affair, that properly cannot lie before us till we are apply'd to by the Company for Relief.

'I am the more ſtrengthened in this Opinion, by what I have been inform'd of, within a few Hours, that the *South-Sea* Company has appointed a Day for conſidering the Merits of that Debt, and alſo for determining whether they will pay it or not; and that their paying it depends on the *Spaniſh* Court's fulfilling certain Conditions inſiſted on by them. Now, my Lords, if the Company ſhall think fit to pay the Debt, or if the Court of *Spain* ſhall think fit to grant them their Terms, I can by no means ſee of what Conſequence this Declaration can be to the Convention. Nay, my Lords, I think in whatever light we view it, it can never affect a Treaty, that has been concluded and ratified. I cannot indeed pretend to account for the Conduct of the *Spaniſh* Miniſter in tranſmitting a Paper of this kind to our Court; but I am ſure it lies entirely out of our Road to take any notice of a Paper, that is ſign'd by one Miniſter only, and that too upon an affair that affects only one Set of Men. We ought at leaſt, my Lords, to wait the Iſſue of the Company's Deliberations on this Head: If they allow the Debt to be juſt, we ſave our ſelves a great deal of Trouble and Time too; if they don't allow it to be juſt, and if the *Spaniſh* Court ſhall inſiſt on executing what is ſpecified in this Declaration, the Affair will no doubt come before us in a proper Manner, and we ſhall then have a juſt Occaſion for expreſſing our zeal for the Rights of the Nation. But in the mean Time, my Lords, I think we ought to take no manner of notice of this Declaration, becauſe it is the Act of a ſingle Miniſter, and conſequently cannot at all affect a Treaty which has been fully ratify'd by both the contracting Powers.'

The Duke of *Argyle*.

Duke of *Argyle*.

'My Lords, ſince I have had the Honour to ſit in this Houſe, I don't think that I ever heard a Motion made, that was leſs liable to objections than the preſent. After a long Tract of Negotiations, a very unuſual Forbearance, we have got a Preliminary Treaty from the Court of *Spain*, but

clogg'd with a Proviſo abſolutely requiring a Condition to be fulfilled on our Part. My Lords, I readily agree with the noble Lords, who have ſpoke againſt the Motion, that the Affairs of Trade, which may occaſion Differences betwixt the *South-Sea* Company and his Catholic Majeſty, are not properly cognizable by us; but when that Court aſſumes to itſelf a Right to ſuſpend ſolemn Treaties ſubſiſting with our Court, if their Concerns in Trade are not adjuſted to their own liking, I think it is high time for us to interpoſe. The *Aſſiento* Contract, my Lords, and the Liberty which the *South-Sea* Company has of ſending an Annual Ship to the *Spaniſh Indies*, are two of the principal Advantages that this Nation reap'd from a very long and expenſive War. And, my Lords, if the *Spaniſh* Court, upon every little difference with this Company, ſhall aſſume to itſelf a Right to deprive us of theſe Advantages, which we enjoy by ſo many ſolemn Treaties, I think, if any Affair ever was of Public, of National Concern, this is ſo. Ann. 12 Geo. II. 1738-9.

'The Declaration we have now heard read, carries with it all the Characters of a public Act of that Crown. It is given in and ſign'd by his Catholic Majeſty's firſt Secretary of State, and firſt Plenipotentiary for the Convention; he tells you therein, that he gives it in conſequence of repeated Memorials and Declarations that have paſſed betwixt him and Mr. *Keene*, his Majeſty's Plenipotentiary; and that it is agreed upon with *reciprocal Accord*. My Lords, I cannot ſee what can be ſtronger than theſe Expreſſions, to make it juſt as Important and as Authentic as the Convention itſelf. But, ſay the noble Lords, who oppoſed the Motion, Mr. *Keene* did not ſign it, and by accepting it, and tranſmitting it to this Court and to the *South-Sea* Company, he did no more than as Agent for that Company he was obliged to do. My Lords, I am of a very different Opinion. As Agent for that Company, he had a Power of making what Conceſſions he had a Mind, at leaſt ſo far as his Commiſſion reach'd, on the part of the Company; and if the Company impower'd him ſo to do, he might engage for the Payment of the Sum mention'd in the Declaration; but he was not to agree to the giving up National Engagements, and Solemn Treaties.

'If, my Lords, as the noble Lord, who ſpoke laſt, inſiſted, this Affair were of a private Nature, and concern'd only one Set of Men amongſt us, I ſhould be very far from taking up your Lordſhips Time in ſpeaking for the Motion; but, my Lords, it appears to me to be an Affair that concerns the Honour of the Crown, and the Intereſt not only of the *South-Sea* Company, but of all the Kingdom: It in

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a more ſpecial Manner concerns the Affair which we are to have under our Deliberation in a very few Days; I mean the Convention; for your Lordſhips ſee that the *Spaniſh* Miniſter, by this Declaration, allows no ſtrength, no Validity to that Treaty, any farther than the Terms of his Demand are comply'd with. But, my Lords, how is it poſſible for us to know how reaſonable theſe Demands are, unleſs we hear what the Party concern'd has to ſay? Shall we give our Approbation to a Treaty, wherein one of the contracting Powers previouſly tells us, that the Validity of the Treaty does not depend either upon our approving or his Majeſty's ratifying it, but upon an Event that, properly ſpeaking, has no regard to the Treaty itſelf? So that, my Lords, it ſeems, the *Spaniards* are of Opinion, that we are either to force the *South-Sea* Company to comply with the Terms of this Declaration, or we are to look upon all that has paſſed betwixt our Miniſters and theirs, as a mere Farce. This, Sir, is plainly the Language of the Declaration, and I might challenge any Man alive to make any other Meaning out of it.

'The noble Lord, who ſpoke laſt, ſaid, that we ought to know the reſult of the *South-Sea* Company's Reſolution before we agree to the preſent Motion. My Lords, I cannot at all ſee the Expediency of that. I don't think that our Deliberations ought to depend upon the Reſolutions of any Company. I ſhall ſuppoſe, my Lords, what may very poſſibly happen; we have already appointed a Day to take the Convention under our Conſideration; we find it to be a proper Meaſure, and we return his Majeſty an Addreſs of Thanks upon it. The *South-Sea* company in the mean Time meet and conſider the Demand of the *Spaniſh* Court; they find that it is either unjuſt in itſelf, or that the Conditions upon which they own'd the Debt to be juſt, and promis'd Payment of it, have not been fulfill'd on his Catholick Majeſty's part; therefore they refuſe to pay it. What follows upon this? The Court of *Spain* tells us, that the Convention is invalid, ſince the Condition upon which they agreed to it is unfill'd. In this Event, my Lords, all we have been doing, all our Debates upon this Meaſure, muſt go for nothing. Therefore, my Lords, it would be certainly the Wiſeſt, as well as the moſt expeditious Courſe, for us to examine the Directors of the Company before-hand, and be inform'd by them of the nature of this Claim, and know if they will pay it or not. If they are ſatisfy'd of its juſtice, and if they are willing to pay it, we can then regularly proceed upon the Merits of the Convention; but if they refuſe it, and are determin'd not to pay it, where is the neceſſity of

of our putting ourſelves to a vaſt deal of needleſs Trouble, in coming to Reſolutions that can be of no Effect?

'My Lords, I cannot ſay I am unqueſtionably warranted in what I ſhall advance; but, if my Information is right, there never was any Claim more unjuſt than this of the *Spaniſh* Court. I have heard, my Lords, they are ſo far from being indebted to the Crown of *Spain*, that that Crown is indebted to them, for near ſix times the Sum pretended, by this Declaration, to be owing to it. I have heard, my Lords, that this Debt on the Duty of the Negroes is one of the moſt unjuſt, arbitrary Claims that ever was; that the Valuation of the Dollar at 5 2 *s.* never was ſettled till ſeveral Years after the *Aſſiento* Contract was made, and that his Catholic Majeſty demands, that all the Deficiency, that happens by their making their former Payments in the Dollars of the Valuation they ſtood at when the *Aſſiento* Contract was made, ſhould now be paid in to his Catholic Majeſty, in the ſame manner as if the Value of the Dollar had been the ſame then as it is now. My Lords, if this is truth, I think there never was any Demand more exorbitant; I think this Declaration is a kind of a Defeazance upon the whole Tranſaction, in caſe ſuch Terms are not comply'd with, as in themſelves are highly Unreaſonable, and which the *Spaniards* themſelves know never will be granted.

'If this, my Lords is the Caſe, I think it is very extraordinary, that Mr. *Keene* ſhould make any ſuch conceſſion as is imply'd in this Declaration at the Court of *Spain*. If he did it in conſequence of his Inſtructions from the *South-Sea* Company, I think that Company has done one of the moſt extraordinary Things that ever was heard of; and if he had no ſuch Inſtructions, I think he has acted in a very unheard-of Manner. But, my Lords, be that how it will, he is certainly to blame in admitting the Execution of a public Treaty to depend on that of a private Tranſaction. There is, my Lords, another very unaccountable Circumſtance in this Affair, I mean, that this Declaration is made in due Form, before the Convention is either ſign'd or ratify'd. So that if the *South-Sea* Company ſhould refuſe to pay the 68,000 *l.* I dare venture to lay all that I am worth in the World, that the *Spaniſh* Court will inſiſt upon a Nullity of all that has been done, and proceed in the ſame Manner as if nothing had been done. They will tell us, that this Declaration is of the ſame Force with any Article of the Convention; that they gave us fair Warning of it before the Convention was ſign'd, and that, if we had not been pleaſed with the Terms, we were under no Obligation to

Ann. 12 Geo. II. 1738-9.

ſign the Convention, ſince it was not their fault if we were not ſufficiently appriz'd of the Conſequences.

'But, my Lords, there is a Reaſon I have not mention'd yet, that weighs very much with me in favour of this Motion. I am not certain Mr. *Keene* may be warranted by his Principals for agreeing to this Power, which his Catholic Majeſty aſſumes to himſelf, *of ſuſpending the* Aſſiento *of* Negroes, *and of diſpatching the neceſſary Orders for the Execution thereof*. But, my Lords, whether he had any inſtructions upon that Head or not, I think it highly proper that your Lordſhips ſhould come to ſome Reſolutions, with regard to the Right which the Crown of *Spain* has of ſuſpending a ſolemn Treaty, ſuch as that of the *Aſſiento* Contract is, whenever any difference happens betwixt it and that Company. On the one hand, there is no doubt that the King of *Spain* has a Right to demand the Execution of the *Aſſiento*; on the other hand, he has no Right to make any arbitrary Demands upon the Company, he has no Right to tell them that if they cannot comply with his Demands, be what they will, he will ſuſpend their Contract, and ſeize upon their Effects. I don't ſay that we ought to be the Judges in this Affair, but I think we ought to adviſe and ſupport his Majeſty in defending the juſt Rights and Properties of his Subjects. And, my Lords, we never can know how the Matter ſtands betwixt his Catholic Majeſty and the Company, without having a State of the Affair from the Company themſelves, and without knowing what their claim upon the Court of *Spain* amounts to, as well as that Court's upon the Company. When we have theſe Informations, we ſhall be able to judge whether this Declaration is founded on juſtice, or whether it is no better than a ſhift to avoid performing their part of the Convention. But, whether this Debt is juſtly due to the *Spaniſh* Court or not, or whether the Court of *Spain* is indebted to the Company or not, I think this Declaration was a very irregular, and a very extraordinary Step. I think it ſhewed the higheſt Diſregard to his Majeſty, and was a very great Indignity to this Nation. I ſhall ſay nothing of the Weakneſs of our Miniſter in accepting it, or of ſigning the Convention clogg'd in this manner. No doubt he had his Reaſons for it, which have not yet appeared to the World, I wiſh they may be to the Satisfaction of the Public; however, I hope your Lordſhips will agree to the Motion, as I heartily do.'

Queſtion paſs'd in the Negative.

The Queſtion being put, the Houſe divided, and it was carried in the Negative, 49 againſt 42.

Feb.

February 23d. Petitions were preſented to both Houſes, by the *Weſt-India* Merchants, by the City of *London*, &c. againſt the ſaid Convention with *Spain*. The City of * *London*'s Petition to the Houſe of Lords being preſented by the Duke of *Bedford*, his Grace upon preſenting it, ſpoke to the following Effect: Ann. 12 Geo. II. 1738-9. Petitions againſt the Convention.

'My Lords, I have in my Hand a Petition from a very great Body of Men, no leſs a Body, my Lords, than the Citizens of *London*. The Importance of this Juncture call'd upon them to aſſemble and deliberate upon the moſt proper Means of preventing the Effects of the Convention, which they apprehend to be ruinous, not only to them, but the whole Kingdom, from taking Place. Encourag'd, my Lords, by their former experience of your Lordſhips great indulgence, they reſolved to proceed in the moſt dutiful manner, by petitioning your Lordſhips to take the Reaſons they are ready to offer againſt the Convention into your mature Deliberation. Duke of *Bedford*.

'Your Petitioners, my Lords, apprehend that they are too deeply intereſted in whatſoever affects the Trade of this Nation, not to expreſs the utmoſt Anxiety for the Welfare and Proſperity of the City of *London*, the only Source of our Riches. And it is with an unexpreſſible Concern, that your Petitioners perceive that the Trade to his Majeſty's *American* Colonies is ſtill expoſed to the Inſults of the *Spaniards*, who, under unwarrantable and injurious Pretences, continue to ſtop, ſearch, and make Prizes of *Britiſh* Veſſels, navigating in the Seas of *America*, in manifeſt violation of the Treaties ſubſiſting between the two Crowns.

'Your Petitioners, my Lords, humbly apprehend that the Trade from our Colonies in *America*, is now almoſt the only profitable Trade which this Nation enjoys, unrival'd by others: And they were induc'd to hope, from his Majeſty's known goodneſs, and paternal care of his People, ſupported by the vigorous Reſolutions of both Houſes of Parliment, and the Equipment of a very powerful Fleet, that his Majeſty's trading Subjects, in the Seas of *America*, as well as in all other parts of the Ocean, would not only have received a full Satisfaction for their Loſſes, occaſioned by the Depredations of *Spain*, but alſo an undoubted Security for their Commerce for the time to come; and that a reaſonable and adequate Reparation would have been likewiſe obtained, for

* See the ſaid Petition at length in *Chand.* Hiſt. Ann. 12 *Geo.* II. 1738-9. p. 419. and the Debate in the Houſe of Com. thereon, p. 424.

Ann. 12 Geo. II. 1738-9.

the Barbarities and inhuman Cruelties, exerciſed by that Nation on the *Britiſh* Seamen, who have had the unhappineſs to fall into their mercileſs Hands.

'Your Petitioners, my Lords, moſt humbly beg leave to teſtify their great Concern and Surprize, to find that, by the Convention lately concluded betwixt his Majeſty and the King of *Spain*, the *Spaniards* are ſo far from giving up their unjuſt Pretenſions of a Right to Viſit and Search our Ships on the *American* Seas, that this Pretenſion of theirs is, amongſt many others, referred to the future Regulation and Deciſion of Plenipotentiaries, appointed on each Side, whereby your Petitioners apprehend it is in ſome Degree admitted.

'Your Petitioners humbly conceive, that they have too much Cauſe to fear, if the Right pretended to by *Spain*, of ſearching *Engliſh* Ships at Sea, be admitted in any Degree whatſoever, that the Trade of his Majeſty's Subjects to *America* will become, in a great meaſure, dependant upon the Juſtice and Indulgence of the *Spaniards*, of both which they have given, for ſome Years paſt, ſuch Specimens, as they humbly think this Nation can have no Reaſon to be ſatisfied with.

'Your Lordſhips Petitioners beg leave farther to expreſs their Apprehenſions, that ſuch a precarious Situation muſt inevitably expoſe the Trade to the *American* Seas to continual Interruptions, and perpetual Alarms, as well as to ſevere Loſſes; and that to theſe unhappy Cauſes, they humbly apprehend, the preſent low State of the *Britiſh* Colonies is owing; and if the cruel Treatment of the *Engliſh* Sailors, whoſe hard Fate had thrown them into the Hands of the *Spaniards*, ſhould be put up without any Reparation, your Lordſhips Petitioners humbly apprehend, it may be the Means of deterring Seamen from undertaking Voyages to *America*, without an Advance of Wages, which neither that Trade, nor any other, is able to ſupport. Your Lordſhips Petitioners therefore, having laid before you the high Importance which this Trade is of to the Nation in general, and to this City in particular, thought it their indiſpenſable Duty to repreſent to the Parliament the fatal Conſequences of leaving the Freedom of their Navigation and Commerce any longer in Suſpence and Uncertainty, and therefore they humbly hope your Lordſhips will take it into mature Deliberation, and do therein as to your great Wiſdom ſhall ſeem meet.'

The

The Lord *Carteret*.

Lord *Carteret*.

'My Lords, As I was coming into the Houſe, a Petition was put into my Hands, from divers Merchants, and others trading to, and intereſted in, the *Britiſh* Plantations in *America*, in behalf of themſelves and many others Your Petitioners, my Lords, ſeem to be the more encourag'd to preſent ſuch a Petition, from the Conſideration of the Reſolutions your Lordſhips came to laſt Year upon this Subject. I remember, my Lords, that I had the Honour to ſuggeſt ſome things to your Lordſhips, that put that Matter in a Light different from what it had ever before been conſidered in; and there is no wonder, if all the Nation, eſpecially thoſe in it who are more immediately intereſted in the Commerce of *America* are ſurprized at the Variation they obſerve betwixt your Lordſhips Reſolutions, and the Terms of the Convention, as now publiſh'd by Authority.'

His Lordſhip then proceeded to open the Petition, which ſet forth, That the Petitioners had laſt Seſſion made their humble Application to Parliament, ſetting forth the continued Depredations committed by the *Spaniards* on the high Seas of *America*, upon the *Britiſh* Shipping and Property; their barbarous and inhuman Treatment of the *Britiſh* Sailors on the taking of their Ships, and their carrying them afterwards into Slavery in *Old Spain*, (the *Spaniards* making it their conſtant Practice to attack and board all *Britiſh* Merchant Ships they met with in the *American* Seas, under Pretence of ſearching for Goods, which they deemed contraband, according to their arbitrary Will and Pleaſure, contrary to the Law of Nations, and in manifeſt Violation of the Treaties ſubſiſting between the two Crowns) and that by theſe unjuſt and violent Proceedings of the *Spaniards*, the Trade and Navigation to and from *America*, was rendered very unſafe and precarious, inſomuch that the Inſurances had greatly riſen on theſe Accounts only; and that the Petitioners having been heard by their Counſel, did, as they apprehend, fully make out in Proofs, every one of the Allegations of their ſaid Petition, to the entire and unanimous Satisfaction of Parliament; upon which Application, the following Reſolutions were agreed upon, *viz.* (Here the Petitioners recited the Reſolutions of the preceding Seſſion, for declaring the Rights of this Nation, and for addreſſing his Majeſty to uſe his Endeavours for the Preſervation of thoſe Rights; and then they went on as follows, *viz.*)

Ann. 12 Geo. II. 1738-9.

That a Cenvention had ſince been entered into between the Crowns of *Great-Britain* and *Spain*, which his Majeſty has been moſt graciouſly pleaſed to order to be laid before Parliament; and the ſame having been publiſhed by Authority, the Petitioners obſerve, with the utmoſt Concern, that the *Spaniards* are ſo far from giving up their groundleſs and unjuſtifiable Practices, of viſiting and ſearching *Britiſh* Ships, ſailing to and from the *Britiſh* Plantations, that they appear to have claimed the Power of doing it as a Right, by having inſiſted that the Differences which have ariſen concerning it, ſhould be referred to Plenipotentiaries, to be diſcuſſed by them, without even agreeing to abſtain from ſuch Viſitation and Search, during the Time that the Diſcuſſion of this Affair may laſt: That the Petitioners are under the greateſt Apprehenſions, ſince *Spain* has contended, that a Point ſo inconteſtably clear, both by the Law of Nations, and all the Treaties ſubſiſting between the two Crowns, ſhould come under Debate, that the *Spaniſh* Plenipotentiaries will be inſtructed not to give it up; and that, if the Freedom of our Navigation and Commerce, to and from our own Colonies, ſhould be left in Suſpence, and in a precarious Situation, it muſt be attended with the moſt fatal and pernicious Conſequences to the Petitioners, whoſe Perſons and Fortunes will thereby be in the Power of the *Spaniſh Guarda Coſta's*, without any Proſpect of Relief, the Petitioners having already too ſeverely experienced the Juſtice of the *Spaniſh* Courts and Governors, to conſider them as any Security; and therefore praying, that the Petitioners may have an Opportunity of being heard, and that they may be allowed to repreſent to Parliament, the great Importance of our Trade to and from our own Plantations in *America*, the clear and indiſputable Right which we have to enjoy it, without being ſtopp'd, viſited, or ſearch'd by the *Spaniards*, on any Pretence whatſoever, and the certain and inevitable Deſtruction of all the Riches and Strength derived to this Kingdom from that Trade, if a Search of *Britiſh* Ships, ſailing to and from the *Britiſh* Plantations, be tolerated upon any Pretext, or under any Reſtrictions or Limitations, or even if the Freedom of this Navigation ſhould continue much longer in this State of Uncertainty. And his Lordſhip concluded with a Motion, 'That the Petitioners ſhould be heard by themſelves or Counſel, if they thought fit.'

The Earl of *Iſla*.

Earl of *Iſla*.

'My Lords, I am very ready to acknowledge the Importance which the Body of Merchants trading to *America* is of to

to this Houſe; and no Lord ſhall be more ready than myſelf to concur in every thing that can contribute to their Relief. But, my Lords, I own to your Lordſhips, that I wiſh they had applied for it in a more decent and dutiful Manner. I am very ſenſible, my Lords, that it is the Privilege of every Man, and every Body of Men, in this Nation, to petition the Parliament: But then, my Lords, theſe Petitions ought to be brought up in ſuch a Manner, as may ſhew that the Petitioners have nothing elſe in view, than to obtain Juſtice, by the moſt lawful and the moſt dutiful Means. Petitioners, my Lords, are not to come up tumultuouſly to Parliament, as if they were reſolved rather to force Juſtice, than petition for it. Beſides, my Lords, Petitions of this kind ought to be founded on an Apprehenſion which the Petitioners have, that the Houſe may not be thoroughly informed of their Rights, and therefore they humbly beg leave to explain them more fully. The Petitions, my Lords, we have now heard, appear calculated to ſerve private and mean Purpoſes, and to inform us of things that have been already fully debated, and are thoroughly underſtood. There are no real Facts in theſe Petitions, but what muſt occur to every Lord, when the Convention ſhall be debated; and if the Petitioners apprehend that we are to approve of this Convention, if it ſhall not be found for the Intereſt and Honour of the Kingdom, I think, my Lords, they pay but a very ſorry Compliment to your Lordſhips Juſtice. I ſhould be glad, my Lords, to know how they came to ſuppoſe ſuch a thing: It can proceed from no good Principle; and I am of opinion, that it betrays rather a Spirit of Faction, than of Submiſſion to the Determination of their Superiors. However, my Lords, I am far from thinking that it may not be proper to hear what the Petitioners have to ſay on the Subject of the Petition; the Conſideration of this Convention will, no doubt, occaſion a good deal of Enquiry into the Commerce of *America*, and Manner of Navigation; therefore, my Lords, I am very willing to give my Voice for their being heard by themſelves at the Bar of your Houſe.'

Ann. 12 Geo. II. 1738-9.

The Lord *Delawar*.

'My Lords, Precedents have always been thought the proper Guides to this Houſe, in all Matters of Form; and I have in my Hand a Precedent, which, in my humble Opinion, comes fully up to the Affair now before us: It is, my Lords, the Caſe of the *Britiſh* Merchants, when the Treaty of Commerce betwixt *France* and *England* was concluded, at the latter part of the Reign of Queen *Anne*. The Intereſt

Lord *Delawar*.

Ann. 12 Geo. II. 1738-9.

reſt of *Great-Britain*, my Lords, was as much concerned in that Queſtion, as in any that has happen'd ſince: We were then upon the Point of concluding a Treaty of Commerce, which muſt have been deſtructive of the Trade of this Nation, and rais'd the moſt formidable Rival of our Power upon the Ruin of our Merchants: But, my Lords, happily for us, the Genius of the Nation prevail'd over all the Arts of a corrupt Miniſtry, who had already ſacrificed but too much of our national Honour, by concluding a weak and diſadvantageous Peace. The Merchants, my Lords, were heard at the Bar of this Houſe againſt the Treaty; they ſhew'd how deſtructive it would prove to the Trade of this Nation, if ever it ſhould take place; and this Houſe, my Lords, had ſo much Regard to what they advanc'd, that the Treaty, at leaſt thoſe Articles in it that were prejudicial to our Intereſts, was thrown out. But, my Lords, I don't find by your Lordſhips Journals, that the Merchants were then allow'd any Counſel; nor do I remember, for it happen'd in my Time, my Lords, that they aſk'd any: They were too ſenſible of your Lordſhips Indulgence, and Tenderneſs for their Intereſts, to doubt of their being very ſafe in your Hands, without having them repreſented by Lawyers. All, my Lords, that, in the preſent Caſe, we have to do, is, I humbly conceive, to examine into Facts; and we can eaſily judge from them, how far this Convention is for the Advantage of this Kingdom. I don't ſee the leaſt Occaſion, my Lords, for Law; it may perplex and puzzle, but it can never direct nor inform us in this Caſe. Therefore, my Lords, eſpecially, as, I conceive, that there is no Precedent of our any in the like Circumſtances to be heard by their Counſel, I think it will be ſufficient if they are heard by themſelves, at the Bar of the Houſe, as to the Facts upon which the Allegations in their Petition are founded.'

The Lord *Carteret*.

Lord *Carteret*.

'My Lords, the Caſe of the Petitioners is of a very extraordinary Nature; ſo extraordinary, my Lords, that I don't believe, if we conſider it in all the Lights it will admit of, that ever the like was brought before your Lordſhips, and, conſequently, there can be no Precedent by which we can determine the preſent Queſtion. I, my Lords, was, it is true, not very old, when the Precedent brought by the noble Lord happen'd: But, my Lords, I was not ſo young but that I could make ſome Obſervations, that have been of uſe to me ſince; and my Lords, give me leave to ſay, that nothing could differ more from the Caſe of the Merchants at that

that Time, than the Caſe of your Petitioners now. The Merchants were heard againſt the Treaty of Commerce, my Lords, not in Conſequence of a Petition to your Lordſhips. My Lords, you thought fit, when that Treaty was communicated to you, to ſend for the Merchants; you examined them; you encouraged them, my Lords, to declare their Grievances; your Lordſhips yourſelves were Counſel for them; for, my Lords, you found their Objections ſo ſtrong againſt the Treaty, that it was thrown out. How does this tally with the Caſe now before us? Your Petitioners have been great Sufferers by the *Spaniards*, and they ſee a Peace ready to be concluded, in which, they apprehend, not only their future Intereſts may be neglected, but their paſt Wrongs are not ſufficiently repaired. My Lords, this makes them Parties; and it has ever been a Rule with the Parliament of *Great-Britain*, to hear all Parties by Counſel, when any thing depends before either Houſe, which they conceive may affect their Properties. It is true, my Lords, that the Legiſlature are the beſt Judges of the Manner in which the general Rights of this Nation are to be ſecured; but, I believe we ſhall not be very fond of approving any Meaſure that may encroach upon private Property. The Merchants who were concern'd againſt the Treaty of Commerce with *France*, my Lords, had no private Property at ſtake; all that was then to be conſider'd was, how far the Trade of the Nation would be affected by that Treaty; therefore there was no Occaſion for Counſel, a bare Repreſentation of Facts was ſufficient for that Purpoſe: But, my Lords, that is not ſufficient now; there are many Claims of our Merchants to be diſcuſſed; we are to hear from them, or their Counſel, the Grounds of their Claims; and we are to conſider upon what Foundation our Commiſſaries proceeded, when they took upon them to make ſuch large Deductions from thoſe Claims. My Lords, we don't know what particular Intricacies there may be in ſuch an Enquiry; and therefore I cannot but think, that it would be doing a Piece of Hardſhip to the Petitioners, if we refuſed to hear them in any manner that they think can beſt ſerve their Purpoſes.

But, my Lords, beſides the Reaſons I have already advanced, to ſhew that the Caſe before us, and the Precedent brought by the noble Lord, are no way parallel, I have another Reaſon for allowing the Petitioners to be heard by Counſel, I don't doubt, my Lords, of our having as ſenſible and as honeſt Men among the Petitioners, as there are in any Country: but, my Lords, give me leave to ſay, that few Ages and few Countries produce ſuch a Man, as he who was the Mouth of our Merchants upon that Occaſion: My Lords,

Ann. 12 Geo. II. 1738-9.

where he ſpoke, there was no Occaſion for Counſel; he talk'd, my Lords, like a Stateſman, a Lawyer, and a Merchant, at once: I do not know, my Lords, if ever we had a greater Man, in his Way: Therefore, my Lords, unleſs we could be ſure of there being ſuch another Man among your Petitioners, at preſent, I think we ought, by all means, to hear them by Counſel, if they ſhould think fit. Perhaps, my Lords, there may be no Occaſion for it; perhaps, the Information we may receive from themſelves, will be ſufficient to determine us: But, my Lords, I think their Caſe is ſo hard, and ſo very ſingular, that we ought rather to ſuggeſt Advantages to them, than deprive them of any Advantages for which they may petition to us.'

The Lord *Delawar*.

Lord *Delawar*.

'My Lords, it is next to impoſſible, that any two Caſes ſhould be ſo exactly parallel, as that the one ſhould ſerve as a Precedent to the other in every reſpect: The preſent Caſe, my Lords, is as much parallel to the Precedent I have brought, as, I believe, any Caſe ever was to another: If this Petition never had been preſented, I dare ſay, my Lords, we ſhould have thought fit to have heard what our Merchants had to ſay upon this Subject: I think, my Lords, it is extremely reaſonable that we ſhould receive from them all the Information that is poſſible; but, at the ſame time, my Lords, I am for our proceeding in the ſame manner, as if this Petition never had been brought up. The noble Lord who ſpoke laſt, muſt allow, that if this Petition never had been preſented, the Petitioners would have had no Right to claim to be heard by Counſel: And, my Lords, I dare ſay the noble Lord will admit, that their Intereſt would have been as ſafe then as now. Can any Man ſay, that, when the Treaty of Commerce with *France* was examined, the Merchants of *Great-Britain* were under any Diſadvantages, in not being heard by Counſel? My Lords, I dare ſay, he will not. And, my Lords, give me leave to ſay, that the Treaty of Commerce was a Subject that afforded as great room for Lawyers to ſpeak upon, as any thing that can poſſibly occur in our Proceedings upon this Convention.'

The Earl of *Abingdon*.

Earl of *Abingdon*.

My Lords, I own to your Lordſhips, that I don't look upon this Queſtion in the ſame Light with the noble Lord who ſpoke laſt: I think, my Lords, a great many things will come to be conſidered by us, when the Convention ſhall be

be debated, that we cannot learn from our Merchants: One of the moſt material Points of Difference betwixt *Spain* and us, my Lords, is the Right which, it is plain, they claim, to a Sovereignty in the Seas of *America:* This becomes a Queſtion in the Civil Law; and, my Lords, give me leave to ſay, it is ſuch a Queſtion, as, I believe, few Lawyers we now have can put in a proper Light for our Information: I am ſorry to ſay it, my Lords, but I do think, that the Study of the Civil Law is too much neglected in this Country; and I am afraid, that when we enter upon that Diſcuſſion, we ſhall be very much obliged to the noble * Lord who ſits over againſt me, and has already ſpoke in this Debate: His Lordſhip, and the other Lords of his Country, I believe my Lords, know more of the Civil Law, than moſt Lords of this Country have, from their Education, had Opportunities of knowing. It is, my Lords, a part of the Education of the Noblemen and Gentlemen of that Country; and if the noble Lords of that Country ſhould happen to be all of one Mind, with regard to this Point, I don't ſee how we can come at any ſufficient Knowledge of what may be ſaid on the other Side of the Queſtion: Therefore, my Lords, I am entirely for agreeing to the Motion, and granting the Petitioners all the Indulgence that they can aſk in Reaſon, or we can grant in Juſtice.' Ann. 12 Geo. II. 1738-9.

The Lord Chancellor.

'My Lords, it is with the utmoſt Pleaſure that I ſee Diſpoſitions ſo favourable for the trading Intereſt of this Nation prevail among your Lordſhips. My Lords, I think the only Contention in the preſent Caſe among your Lordſhips is, who ſhall favour the Merchants moſt. The Reaſon why the two noble Lords are of Opinion they ought to be heard only by themſelves, ſeems to be, becauſe a plain Matter of Fact, honeſtly told by a Merchant, will make a more deep Impreſſion in the Mind, and contribute more to your Lordſhips Information, than it could do with all the Pomp and Embelliſhments of artificial Oratory. The other Lords are of Opinion, and, indeed, I own myſelf to be of the ſame Opinion, that the Petitioners ought to be denied no Favour they can reaſonably aſk; and that ſome Points of Law may ariſe proper for Lawyers to repreſent. My Lords, it is true, that at preſent I don't foreſee any particular Intricacy of that kind, but it is as true, that ſuch an Intricacy may ariſe, and therefore I can ſee no Inconveniency attending our indulging the Petitioners in their Requeſt; at the ſame time, I think it is but of very little Conſequence, either one way or another; Lord Chancellor.

* Meaning the Earl of *Iſla*.

Ann. 12 Geo. II. 1738-9.

the Intereſts of the Petitioners are in either Event ſafe, when your Lordſhips are Judges; and, I dare ſay, if your Lordſhips were of Opinion, that our complying with this Motion could any way contribute to your farther Information, the Houſe would unanimouſly agree to it. In the mean time, my Lords, I am for indulging the Petitioners, if the noble Lords who made and ſupported the Motion, ſhall think fit to inſiſt upon it.'

The Earl of *Cheſterfield*.

Earl of *Cheſterfield*.

'My Lords, nobody will, I believe, ſuſpect my Zeal for the Relief of our ſuffering Merchants. Their Wrongs call aloud for Reparation; and the Nation requires that the ſtrongeſt Security ſhould be given for the Preſervation of her Rights in Time to come. I wiſh both theſe, my Lords, may have been ſufficiently taken Care of in the Convention; but I won't anticipate your Lordſhips Debate on that Subject: I cannot help ſaying, however, that to me it is a moſt unfavourable Symptom of its being for the Good of the Nation, when I ſee ſo ſtrong an Oppoſition made to it without Doors, by thoſe who are the moſt immediately concerned in its Effects.

'The Queſtion with your Lordſhips is, Whether Counſel ought to be allowed to the Petitioners, or not. My Lords, I think this Queſtion ought to have admitted of no Debate. If the Petitioners deſired to be heard by Counſel, I think it was reaſonable they ſhould. I think, my Lords, no Precedent ſhould be brought to debar them of any Indulgence they can, conſiſtently with Juſtice, aſk. My Lords, if there are no Precedents in our Journal for hearing them by Counſel, we ought to make a Precedent in this very Caſe, if the Petitioners ſhall think fit to inſiſt on its being for their Advantage, or neceſſary for our better underſtanding the Allegations of their Petition.

'But, my Lords, I own myſelf to be ſo far of the noble Lord's Opinion who ſpoke laſt, that it is a very indifferent Matter to the Petitioners whether they are heard by Counſel or not. 'I can ſee no Advantage that Counſel can be to them in their preſent Situation. Lawyers, my Lords, can be of no Service in giving us either clearer or truer Information; and, my Lords, if we ſincerely want to know the Truth, and nothing but the Truth, we are to hear it from the Mouths of the Merchants themſelves; becauſe, my Lords, it is their Intereſt to ſpeak Truth, and Intereſt never lies. Let us, therefore, my Lords, hear them by themſelves; and I dare ſay, your Lordſhips will find that their Grievances have been

of

of ſuch a Nature, as to require no Embelliſhments of Language to recommend them to your Lordſhips Conſideration. I dare ſay farther, that your Lordſhips, at the ſame time will find the Neceſſity of our future Security ſo plainly pointed out, as to ſtand in need of no Terms of Law to prove it. Thus, my Lords, we ſhall hear the Language of the Heart, a Language we may ſafely truſt to; a Language, my Lords, which I am afraid has been little talk'd, has had but little Influence in the Conferences that preceded this Convention. As for Counſel, my Lords, if it be found neceſſary, the Petitioners are ſtill at Liberty to apply for it: But I ſay, my Lords, let us in the mean time hear the Merchants themſelves, and if Juſtice ſhall be denied them where Juſtice is expected, all the Kingdom, my Lords, all *Great Britain* will be their Counſel.'

Ann. 12 Geo. II. 1738-9.

The Queſtion being then put, That the Petitioners be heard by themſelves at the Bar of the Houſe, when the Convention ſhall be read a ſecond time, it was unanimouſly agreed to.

Vote in Favour of the Petitioners.

The Houſe of Lords having heard the Merchants upon their Petition againſt the Convention, and having examined ſeveral Witneſſes, they appointed the firſt Day of *March* for taking farther into their Conſideration the Convention between *Great Britain* and *Spain*, and the Houſe to be ſummoned.

Convention taken into Conſideration.

Accordingly, as ſoon as the Order of the Day was read, the Earl of *Chalmondeley* ſtood up, and ſpoke as follows,

'My Lords, We are now met in order to approve or diſapprove of a Meaſure that has made a very great noiſe in the World, and is of the utmoſt Conſequence to the Honour and Intereſt of this Nation. As your Lordſhips have, with great Patience and Candour, heard the Petitioners againſt the Convention, your Lordſhips cannot miſs now of being thoroughly informed of every poſſible Objection to it. For my own Part, my Lords, I have given all the Attention that I was capable of giving in this Affair: I have endeavoured, as much as poſſibly I could, to be quite unbiaſs'd; and, I flatter my ſelf, the Judgment I have form'd of this Meaſure, is the Reſult of an impartial Inquiry into its Merits. I don't know whether I ſhall be ſo fortunate as to have your Lordſhips of the ſame Opinion with me; but I hope your Lordſhips will indulge me a little, while I give my Reaſons for a Motion that I ſhall take the Liberty to make.

Earl of *Cholmondeley*.

'Who-

Ann. 12 Geo. II. 1738-9.

'Whoever, my Lords, conſiders the mutual Intereſts of *Great Britain* and *Spain*, will eaſily allow that theſe Intereſts are beſt conſulted by cultivating a ſtrict Peace and Harmony with one another. *Great Britain*, whoſe Welfare depends upon a Trade, in which ſhe has now many Rivals, reaps great Advantages from a free and uninterrupted Commerce with *Spain*. And, on the other hand, the Neceſſity that *Spain* is under to cultivate a good Underſtanding with *Great Britain* is ſo evident, that it is become even proverbial amongſt them. The Advantages of a good Underſtanding being thus mutual, it is to be preſumed that the Miniſters of both Crowns will be equally deſirous, equally ſincere in removing all Impediments to ſo deſirable an End. At the ſame time, my Lords, the great Intercourſe betwixt the Subjects of the two Nations, the Neighbourhood of their Poſſeſſions, and, give me leave to add, the different Genius of the two People, render theſe Impediments pretty frequent; and they are of ſuch a Nature, as not to be ſurmounted but by each Party wiſely yielding a little to the other. As *their* Poſſeſſions in *America* is the Source of their Wealth, and as the Trade which *we* carry on with our Settlements there, is the moſt valuable Branch of our Commerce, the Preſervation of that Trade, and theſe Poſſeſſions, free and entire, is what each Nation is preſumed principally to have in View. But as theſe Poſſeſſions and Settlements lie at ſuch a vaſt Diſtance from each Nation, there is no wonder if it is often very difficult for the Government in *Europe* to form a right Judgment of the Facts that create Differences betwixt the two Crowns; the Officers of both repreſenting Matters to their own Court in ſuch Colours as may beſt excuſe their own Conduct, or promote their Intereſt. So that, though each Crown had the beſt Diſpoſitions in the World to do Juſtice to the Subjects of the other, it is many times next to impoſſible for either to form a true Judgment of Matters ſo ſoon as the Impatience of the Parties requires.

'I am apt to believe, my Lords, that the Differences, which have ſo long ſubſiſted between the Courts of *Great Britain* and *Spain*, are rather owing to theſe Cauſes, than to any Claim of Sovereignty on the *American* Seas, or to any excluſive Right of Navigation the *Spaniards* pretend to on theſe Seas. The firſt, my Lords, has never yet been owned by the Court of *Spain*; and, indeed, it is too ridiculous a Claim for any People, not abſolutely void of common Senſe, to inſiſt on. The other Claim, I think, is given up by the Convention. The Preamble, my Lords, of that Treaty ſays, That *whereas Differences have ariſen between the Courts of* Great Britain *and* Spain, *on Account of viſiting, ſearch-*

ſearching and taking of Veſſels, the ſeizing of Effects, the Regulation of Limits, and other Grievances alledged on each Side, (for, my Lords, the *Spaniards* have their Grievances as well as we;) *therefore his* Britannic *Majeſty, and his Catholic Majeſty, having nothing ſo much at Heart as to preſerve and corroborate the good Correſpondence which has ſo long ſubſiſted, have granted full Powers to their Plenipotentiaries to conclude this Convention.* This Preamble, my Lords, ſhews a ſincere Intention, in each of the Contracting Powers, to yield to the juſt Demands of the other. We, on our Side, have complained of the Searching, Viſiting and Taking our Ships, and the Seizing our Effects. The *Spaniards*, on their Side, complain, that we have encroached upon their Limits. Both Crowns are ſenſible, that, unleſs the Cauſes of theſe Complaints are removed, a Rupture muſt follow.

'But, my Lords, as we have already ſuffered a great deal, as our Trade has been put under great Encumbrances, and the Loſſes of our Merchants have been conſiderable, it was but reaſonable that our Claims ſhould have a Retroſpect. Accordingly we find, that the firſt Article of the Convention not only provides for the removing of all Complaints for the future, but contains a general Acknowledgment of our Right to Satisfaction for what is paſt.

'In that Article, my Lords, we find, 'That the adjuſting and regulating the Pretenſions for reciprocal Reparation of the Damages already ſuſtained, and, above all, to find out Means to prevent the like Cauſes of Complaint for the future, and to remove abſolutely, and for ever, every Thing which might give Occaſion thereto, is acknowledged to be the only Means of eſtabliſhing, on a laſting Foundation, the ancient Friendſhip ſo deſirable and neceſſary for the reciprocal Intereſt of both Nations, particularly with regard to Commerce' This, I am perſuaded, your Lordſhips will agree to be the Point, which our Miniſtry ought to have had principally in View; and give me leave to ſay, my Lords, they were directed in this by your Lordſhips Reſolutions, which included Satisfaction for paſt, and Security againſt future Injuries. Thus, my Lords, your Lordſhips and the Miniſtry have proceeded on the ſame Foundation, you have laboured to effect the ſame End.

'What remains now to be conſider'd is, whether the Meaſures which the Miniſtry have taken, whether the Stipulations in this Convention are the proper Means of obtaining theſe great Purpoſes. Whoever conſiders, my Lords, the Variety of Diſputes and Pretenſions that have ſubſiſted of late between our Court and that of *Spain*, muſt readily allow

Ann. 12 Geo. II. 1738-9.

low, that is impoſſible to adjuſt them all at once. For this reaſon the Adminiſtration of *Great Britain* found itſelf under a Neceſſity of delaying, for eight Months, the Concluſion of the definitive Treaty, by which the reſpective Pretenſions of the two Crowns are to be finally regulated. But his Majeſty had ſo great a Regard to the Intereſt of his injured Subjects, that he inſiſted upon, and obtained a definitive and expreſs Article for immediate Reparation. I know, my Lords, it has been objected to this Convention, that the Renunciation of all Claims which the *Spaniards* have to ſtop or ſearch our Ships, ought to have been the firſt and the moſt expreſs Stipulation, for fear that in the enſuing definitive Treaty ſufficient Care ſhould not be taken of that Point. But, my Lords, I cannot ſee the leaſt Foundation for this Objection; the Security of our Navigation, even by this Preliminary, is ſtrongly provided for. We find, by the latter Part of the firſt Article, that the Plenipotentiaries are far from being at liberty to act in this Reſpect as they pleaſe: They are tied down to proceed according to the Senſe of all the Treaties now ſubſiſting between the two Crowns. Your Lordſhips have found, that, by theſe Treaties, the Freedom of the Navigation and Commerce of the *Britiſh* Subjects in the *American* Seas is ſufficiently eſtabliſhed. Therefore, my Lords, if this is all that we want in a definitive Treaty, as our Plenipotentiaries are tied down by thoſe former Treaties, I ſhould be glad to know where the Force of this Objection lies.

'The Treaties which are referred to, my Lords, are no leſs than eight; and as each preceding Treaty received a Confirmation by the ſubſequent, ſo the definitive Treaty, that is to be concluded in eight Months from the Date of this Convention, muſt give a farther Confirmation to every one of them. Our Miniſters therefore, my Lords, have acted in this Meaſure no otherwiſe than the Miniſtry in all Ages have acted, when the Points in Diſpute could not be immediately ſettled by the preciſe Words of the Treaties already in force. In ſuch caſe all that a Miniſter can do, is to make another to explain them. They are to make expreſs Proviſions in that Treaty for all thoſe Caſes which occaſion Doubt or Diſpute, whereby the Meaning and Intention of the preceding Treaties is farther aſcertain'd.

'This, my Lords, is exactly the Caſe betwixt *Spain* and *Great Britain*. We can make no Treaty with that Court, by which we can acquire any additional Security for our Navigation and Commerce, which we have not already ſtipulated to us, in effect, by preceding Treaties. But we can make a Treaty, in which the Stipulations ſhall be more

more comprehenſive and expreſs, ſo as to avoid all future Diſputes. As this is, and was, the only View of our Miniſtry in the late protracted Negotiations, I do not ſee what greater Satisfaction the Nation can have, as to the definitive Treaty that is to follow this Convention, than the expreſsly naming all former Treaties, according to which all Pretenſions are to be finally regulated.

'Let us ſuppoſe, my Lords, that the *Spaniards* entertain ſome chimerical Notions, which at preſent they don't think fit to divulge; and that they are from thence reſolved to inſiſt upon certain Stipulations in the Definitive Treaty, prejudicial to our Intereſts: I ſay, ſuppoſing this to be their Deſign, we have prevented both their perſiſting therein, and our Negotiators making any Conceſſions of that kind. They muſt, by this Article, have a Retroſpect to former Treaties. The Tenour of theſe, is to be their Rule. This Article, therefore, my Lords, is equal to a formal Renunciation of their Claim to a Right of ſtopping, ſearching, and plundering our Ships; becauſe, while they acknowledge the Validity of theſe Treaties, they, in the ſtrongeſt manner, diſavow all ſuch Pretenſions: Nay, my Lords, I think that, according to the Circumſtances betwixt us and *Spain*, it is a much ſtronger Security than we could have had from any Renunciation; becauſe we treat with this Advantage on our Side, that we have 155,000 *l.* in Hand, as an Earneſt for their abiding by every Stipulation.

'It may be here objected, that the *Spaniards*, very probably, entertain a quite different Notion of the Senſe of theſe Treaties; and that when they agreed that the Proceedings of the Plenipotentiaries ſhould be according to them, they imagin'd that the Tenor of theſe Treaties gave them a Right to ſearch our Veſſels upon the *American* Seas. This Objection, I apprehend, may be remov'd ſeveral Ways: And firſt, my Lords, their owning themſelves indebted to our Merchants, is a full and a direct Acknowledgment that they acted againſt the Meaning of Treaties, as often as they ſtopp'd and ſearch'd our Ships upon theſe Seas. This, my Lords, is ſelf-evident; for if they believe that theſe Treaties give them a Right to ſearch, how can we ſuppoſe that they would conſent to pay Damages for confiſcating our Ships, a natural Conſequence of their Search?

'Therefore, my Lords, I do affirm, that the *Spaniards* could not have given us a ſtronger proof that they now underſtand theſe Treaties in the very ſame ſenſe with your Lordſhips, and with all *England*, than their paying Damages for having pretended to underſtand them in a different Senſe.

Ann. 12 Geo. II. 1738-9.

'But, my Lords, whether they underſtand theſe Treaties in the ſame Senſe with us, or not, it will be no Diſadvantage to *Great Britain*. Suppoſe the Plenipotentiaries on both ſides are met, and enter upon this Point: They differ about it: What is the Conſequence, my Lords? Why the Conferences are broken up, and we do then the very ſame thing that we can do now; we declare War; but with this Difference, that we ſhall then carry on the War with 95,000*l.* more in our Pockets than we have at preſent; beſides which, we may add a ſtill greater Advantage, an uninterrupted Proſecution of our Commerce for ſix or eight Months longer. There is ſtill another anſwer to this Objection, my Lords: The *Spaniſh* Miniſtry are ſufficiently apprized of the Conſtruction which *Great Britain* puts upon theſe Treaties: They ſee it by the Reſolutions of both Houſes of Parliament, and they ſee it in every Memorial preſented on that Subject; ſo that, unleſs they had been reſolved to ſettle this Point in the very manner in which we underſtand it, we cannot ſuppoſe that they would have agreed to the Payment of the Money, or put themſelves to the Trouble of appointing Plenipotentiaries, and holding Conferences to no Purpoſe.

'They can't flatter themſelves that our Plenipotentiaries will dare to underſtand theſe Treaties in any other Senſe than what both Houſes of Parliament have affix'd to them, or that our Miniſtry will adviſe the Ratification of any ſuch unauthorized Treaty. Upon the whole, my Lords, I will venture to ſay, that I have unanſwerably remov'd the grand Objection againſt this Convention, of its not being a definitive Treaty, or a Treaty which finally aſcertains the Commercial Rights of this Nation, and guards againſt their Violation for the future. Thus, my Lords, I humbly hope I have made out my Propoſition, with regard to the Reaſonableneſs and Advantages of this Article, to your Lordſhips Satisfaction.

'So great a Conceſſion being made on the Part of the *Spaniards* (and I will venture to ſay, my Lords, that it is as great as ever was made by any People not abſolutely reduc'd) it was proper to take the other Subjects of mutual Complaint betwixt the two Nations under Conſideration. That of the greateſt Importance, next to the Liberty of an unmoleſted Navigation, related to the Limits of *Carolina* and *Florida*. The *Spaniards* contend, that, in our Settlement of *Georgia*, we have made ſome Encroachments upon their Frontier. We deny it; therefore this Affair is left by the ſecond Article, to be ſettled by the Plenipotentiaries. But, my Lords, this does not at all weaken the Right we inſiſt on to the Province of *Georgia*. This Right, as well

as that to a free and uninterrupted Navigation, is eſtabliſh'd by the Treaties (particularly the *American*) which are to regulate the Proceedings of the Plenipotentiaries. Our Miniſtry, therefore, have done wiſely in thus referring that Matter to a future diſcuſſion. Beſides, my Lords, it is very poſſible that the *Spaniards* may have ſome juſt Cauſes of Complaint with regard to the Boundaries of thoſe Provinces. However, it is reaſonable, at leaſt, to hear what they have to ſay upon this Head; and, if their Complaints are well grounded, to remove the Cauſe of them. This, my Lords, is no more than doing as we would be done by. As to leaving the Territories of both in the ſame State they are in at preſent, without raiſing or carrying on any additional Fortifications, it is an Article that we cannot juſtly complain of; for, beſides the Equity of the Thing in itſelf, it is as much for our Intereſt as for that of *Spain*, ſince they have no more Liberty in this Reſpect than we have. Beſides, it is an uſual Stipulation in all Treaties made for ſettling Boundaries. Ann. 12 Geo. K. 1738-9.

'The next Article, my Lords, relates to the Satisfaction which our Merchants are to have for their paſt Loſſes, and is Definitive. By this, my Lords, his Majeſty has ſet a noble Example to his Succeſſors, in providing immediately for the Intereſt of his Subjects, while the Intereſts of his Crown are referred to a future Diſcuſſion. It is true, that the Sum ſtipulated for their Relief is not equal to their firſt Demands, but no reaſonable Perſon will object to this, when he reflects that Loſſes of this kind are commonly aggravated; and that it would have been Imprudent, if not Unjuſt, to have inſiſted upon the Rigour of ſuch Demands, and thereby have defeated the whole. Accordingly, our Commiſſaries thought fit to reduce the original Sum to 200,000*l.* When this was done, my Lords, there was ſtill another Difficulty. His Catholic Majeſty's Funds in *America*, from which this Money was to be paid, are very uncertain, and the Diſburſements from them ſlow and precarious. His Miniſters inſiſted, that Payment ſhould be made either in the places where the Confiſcations happen'd, which muſt have been a vaſt Inconveniency to the Sufferers; or that they ſhould accept of Security for it on the *Chamber of Commerce* at *Seville*. This was ſtill worſe, by reaſon of the Difficulties that attend ſuch a Payment, and the Perquiſites that muſt be deducted for the ſeveral Officers. Upon theſe accounts a further Deduction of 45,000*l.* was allow'd for prompt Payment, which is to be made at *London*, within four Months after the Exchange of the Ratifications. Now, my Lords, as we had made ſuch Deductions, it was but reaſonable that the *Spa-*

Ann. 12 Geo. II. 1738-9.

niards ſhould likewiſe on their Parts recede from the Rigour of their Demands, which amounted to 180,000 *l.* and were reduced to 60,000 *l.* This Abatement, in proportion to the Sum, is conſiderably larger than that made on our Part, and is a Proof, both of the Zeal of the Miniſtry here for the Intereſts of the Nation, and of the Willingneſs and Sincerity of the *Spaniards* to fulfil their Engagements. This Abatement was the more extraordinary, being made out of a Debt that we had, by Treaty, own'd to be due. The ſame Article provides, that it ſhall not be pretended that theſe reciprocal Diſcharges extend to the Accounts and Differences which ſubſiſt, or are to be ſettled between the Crown of *Spain* and the *South-Sea* Company. By this, my Lords, we ſee that all the Accounts betwixt that Crown and the aforeſaid Company are entirely diſtinct from thoſe that are ſettled by the Commiſſaries appointed by the Treaty of *Seville*, and that his Catholic Majeſty has no manner of Pretence for detaining a Shilling of this 95,000 *l.* on account of any Debt that may be owing him by the *South-Sea* Company. On the other hand, my Lord, by this Article, Care is taken that the *South-Sea* Company ſhall be entitled to all the Debts which they can claim of that Crown, or its Subjects.

'The fourth Article, my Lords, relates to ſome Ships, the Value of which was included in an Eſtimate made by the Commiſſaries appointed by the Treaty of *Seville*, and which makes a Part of the 155,000 *l.* ſtipulated for the Relief of our Merchants. Nothing, therefore, could be more reaſonable than, if, in Conſequence of the Orders diſpatched to the Court of *Spain* for that purpoſe, the whole, or any part of the Payment for theſe Ships has been made in *America*, ſuch Payment ſhould be deducted out of the ſtipulated Sum. Care is, notwithſtanding, taken in the ſame Article, that the Payment of the 95,000 *l.* ſhall not be, for that Reaſon, in any manner delayed; ſo zealous, my Lords, was our Miniſtry for obtaining an immediate Relief for our ſuffering Merchants; and ſo willing was the Crown of *Spain* to grant it, that, by the latter Part of the Article, ſhe entirely relies on the Faith of the Government here, for refunding what ſhall appear to have been already paid.

'The next Article, my Lords, provides that the Ratifications of this Convention ſhall be delivered or exchanged at *London*, within the Space of ſix Weeks, at fartheſt, after they are ſigned. This, my Lords, is as ſhort a Time as could have been allowed for that Purpoſe, and ſhews, that our Miniſtry here were reſolved that not a Day ſhould be loſt in bringing this Affair to a ſpeedy Iſſue.

'The

'The first separate Article, my Lords, is calculated to remove the common Objection of the Tediousness of all Negotiations with that Court. By this Article, the Ministers Plenipotentiary, who are to meet at *Madrid* within the Space of six Weeks, to be reckoned from the Day of exchanging the Ratifications, are named on the Part of *Spain* as well as of *England*; and, by the latter Part of the said Article, a very short Term is appointed for the Payment of the 95,000 *l.* In fine, my Lords, to conclude this short View of the Stipulations of the Convention, the Ministry has had so just a Regard to the Interest of the Subjects, that an express Provision is made for the Restitution of a Ship, the Value of which is not comprehended in the Estimate made by the Commissaries; because, it seems, the Circumstances of her Capture were, on the Part of *Spain*, more inexcusable than those of any of the other Captures. Ann. 12 Geo. II. 1738-9.

'From this impartial Survey, my Lords, I hope it will appear to your Lordships, that his Majesty, in the whole Course of this Negotiation, has had nothing so much at Heart as the Interest of his Subjects; and that the same has been faithfully and successfully prosecuted on the Part of his Ministry. This Negotiation, my Lords, therefore, may be justly looked upon as the Performance of those Promises and Assurances which the Parliament has received from the Throne, as often as it has addressed it on this Head. And as the Prosperity of his Majesty's Subjects, and the Honour of his Crown are inseparable, a just Regard in all the Stipulations has been had to those important Points. Care has been taken, that all the Concessions that are made in this Treaty, have been made on the Part of *Spain*. Therefore, my Lords, I hope, on this Occasion, all Contentions and Animosities will cease amongst us, since his Majesty has now removed the Causes which have so long and so unhappily divided us.

'This, my Lords, is the only Means of making a just Return to the Regard which his Majesty has always expressed for your Lordships Resolutions and Advice, since every Step of this Negotiation has been conducted, according to what appears, to have been the Sentiments of Parliament.

'Your Lordships, in all your Deliberations upon this great and important Affair, have express'd a just Sense of the Miseries which War entails upon a Trading People; you have expressed your Desire of securing the Blessings of Peace, if they could be secured with the Dignity and Interest of this Nation. This Negotiation, my Lords, crowns the Wishes of Parliament, by answering all these great Ends; and it has been conducted in such a manner, as to convince those with whom

Ann. 12 Geo. II. 1738-9.

whom we were treating, that his Majeſty was as ready to do himſelf Juſtice by Arms, as he was willing to receive it by Negotiation. No ſooner, my Lords, was this Convention concluded, than his Majeſty laid the Treaty before this Houſe. All that now remains, is, for your Lordſhips to add Strength and Weight to his Majeſty's Negotiations, by your Approbation. Therefore, my Lords, I take the Liberty to move,

Moves for an Addreſs of Approbation.

That an humble Addreſs ſhould be preſented to his Majeſty, to return his Majeſty the Thanks of this Houſe, for laying the Convention between his Majeſty and the King of *Spain*, dated the 14th Day of *January* laſt, together with the ſeparate Articles, before this Houſe: To declare that we think it our indiſpenſable Duty, on this Occaſion, to expreſs our juſt Senſe of his Majeſty's Royal Care of the true Intereſt of his People, and to acknowledge his great Prudence, in bringing the Demands of his Subjects for their paſt Loſſes, which had been ſo long depending, to a final Adjuſtment by the ſaid Convention, and procuring an expreſs Stipulation for a ſpeedy Payment; and in laying a Foundation for accompliſhing the great and deſirable Ends of obtaining future Security, and preſerving the Peace between the two Nations: To beg leave alſo to declare to his Majeſty, our Confidence and Reliance on his Royal Wiſdom, and ſteady Attention to the Honour of his Crown, and the Welfare of his Kingdoms; and that in the Treaty to be concluded in purſuance of this Convention, proper Proviſions would be made for Redreſs of the Grievances ſo juſtly complained of; and particularly, that the Freedom of Navigation in the *American* Seas, to which his Majeſty's Subjects are entitled by the Law of Nations, and by Virtue of the Treaties ſubſiſting between the two Crowns, would be ſo effectually ſecured, that they might enjoy, unmoleſted, their undoubted Right of Navigating, and carrying on Trade and Commerce from one Part of his Majeſty's Dominions to any other Part thereof, without being liable to be ſtopp'd, viſited, or ſearched, on the open Seas, or to any other Violation or Infraction of the ſaid Treaties; the mutual Obſervance thereof, and a juſt Regard to the Privileges belonging to each other, being the only Means of maintaining a good Correſpondence, and laſting Friendſhip between the two Nations: And to deſire Permiſſion at the ſame time, in the moſt dutiful manner, to expreſs our firm Dependance, that, in the Treaty to be concluded in purſuance of the ſaid Convention, the utmoſt Regard will be had to the Rights belonging to his Majeſty's Crown and Subjects, in adjuſting and ſettling the Limits of his Majeſty's Dominions in *America*; and to give his Majeſty the ſtrongeſt Aſſurances, that in caſe his juſt Expectation ſhould not be anſwered,

anſwered, this Houſe will heartily and zealouſly concur in all ſuch Meaſures, as ſhall be neceſſary to vindicate his Majeſty's Honour, and to preſerve to his Subjects the full Enjoyment of all thoſe Rights, to which they are entitled by Treaty, and the Law of Nations.'

Ann. 12 Geo. II. 1738-9.

Debate thereon.

The Lord *Carteret*.

'My Lords, I could have wiſhed this Affair had come under our Deliberation in another Shape. Since I have had the Honour of ſitting in this Houſe, I never heard a more complicated Queſtion put to it: And, my Lords, it is a very unpleaſant Taſk to oppoſe a Motion, when one cannot do it without oppoſing a Meaſure that carries, or ſeems to carry, the Marks of Duty and Gratitude to his Majeſty. But, I fear, the Addreſs propoſed will be the moſt dangerous Compliment this Houſe ever made, the moſt fatal his Majeſty ever received. Had the Convention, my Lords, without any Conſideration of this Kind, been the Subject of Debate, I ſhould not have had the leaſt Difficulty in expreſſing my Sentiments. But, as the preſent Motion is upon an Addreſs to his Majeſty, I own, that I am under ſome Difficulty. However, my Lords, I will endeavour, in what I ſhall advance upon this Subject, to preſerve that entire Reſpect I ever ſhall have for my Sovereign; and, at the ſame time, to deliver myſelf with Freedom, in regard to the Intereſts of my Country, which ſhall always be firſt in my Thoughts.

Lord *Carteret*.

'The noble Lord, who made the Motion, has endeavoured to demonſtrate to your Lordſhips, the great Advantages ariſing to this Nation from the Convention; he has examined every Article by itſelf, and finds it, upon the whole, to be a juſt and honourable Treaty. My Lords, I ſhall take the freedom to examine in the ſame manner, and ſhall endeavour to ſhew your Lordſhips, that it anſwers neither of the two great Points the Nation has in View, I mean, Reparation for paſt, and Security againſt future Injuries. At the ſame time, my Lords, I ſhall keep in my Eye the Reſolutions which your Lordſhips came to laſt Seſſion, which our Miniſters ought to have kept cloſe to in all their ſubſequent Negotiations with *Spain*.

'The noble Lord, towards the beginning of his Speech, with great Accuracy diſplay'd the Advantages accruing to *Great Britain* from a right Underſtanding with *Spain*; his Lordſhip has likewiſe taken Notice of the Diſadvantages which the great Diſtance betwixt *Old* and *New Spain* puts that Government under, by making it impoſſible for them to know the true State of the Differences that frequently ariſe betwixt

Ann. 12. Geo. II. 1738-39.

betwixt the Subjects of the two Crowns, ſo ſoon as the Impatience of our Merchants requires. This, my Lords, might be a very good Argument in Favour of the *Spaniards*, if the Injuries we ſo juſtly complain of were but of Yeſterday. But give me leave to ſay, my Lords, that they are of a very long Standing. The *Spaniards*, ſlow and phlegmatical as they are, had they been in the leaſt diſpoſed to do us Juſtice, might have, by this time, made a thorough Enquiry into the Nature of theſe Complaints, they might have been fully informed in every Particular that either their own Governours, or the Subjects of *England* had to alledge. They have had almoſt twenty Years, my Lords, for this Enquiry; and if their Diſpoſitions had been ſo Juſt, as the noble Lord ſeems to think they are, it is impoſſible but that, during that time, they muſt have found the Means of giving us Satisfaction. But, my Lords, it is plain, upon the Principles they went, we never could have Satisfaction. If a Seizure of one of our Ships was made, we applied to the Court of *Spain* for Redreſs; we laid our Grievances before their Miniſters, and they ſent Orders to *America* to their Governours to enquire into the Facts. My Lords, I ſay, that was not the Method by which we were to have Reparation; as the noble Lord himſelf obſerved, it was the Buſineſs of their Governours to excuſe their own Conduct, by throwing the Blame upon us. Therefore, we can never ſuppoſe that they would admit themſelves in the Wrong. So that, if the Court of *Spain* was to form their Judgment upon the Repreſentation of their Governours, we were always ſure to have it given againſt us.

'But, my Lords, tho' the *Spaniſh* Governours had really been diſintereſted, or any way diſpoſed to do our Merchants Juſtice, yet, as the Facts were ſtated to them from the Court of *Spain*, the Caſe would have been the ſame. For let us ſuppoſe, my Lords, that one of our Ships, in ſailing from one Part of his Majeſty's Dominions to another, is ſurprized by the *Spaniards*, they find therein Logwood, Cocoa Nuts, or *Spaniſh* Coin, accordingly ſhe is carried to a *Spaniſh* Port, where theſe Facts being proved, and finding that the Ship was taken within what they ridiculouſly call their Latitude, ſhe is confiſcated. What follows? The Owners apply to the Court of *Spain*, their Solicitations are backed by our Miniſter there. Perhaps they obtain an Order to the Governour of the Place where their Ship was confiſcated, commanding Reſtitution, provided ſuch and ſuch Facts ſhall not appear. But what are theſe Facts, my Lords? They are Facts that may happen to any *Engliſh* Ship, navigating theſe Seas, in the ſtricteſt manner preſcribed by Treaties. For it is evident, that our Merchants may have Cocoa Nuts and Logwood in their Ships, with-

without being concerned in an illicit Trade; they may have *Spaniſh* Coin too, and yet not a Man of the whole Crew have been near their Settlements. The Wood and Nuts are Commodities growing in our own Colonies; and the Silver is current all over *America*. The *French* and the *Dutch* Colonies have great Plenty of it, and the *Engliſh* more. So that, if all our Ships having theſe Things on Board are liable to Confiſcation, not One in Twenty can be ſafe. Ann. 12 Geo. II. 1738-9.

'As to our Ships coming within a particular Latitude, this is ſtill a more unjuſt Ground of Confiſcation, if poſſible, than the other. You have heard it plainly proved, my Lords, at the Bar of your Houſe, that no Maſter of a Veſſel navigating in thoſe Seas, can know exactly what Courſe he ſhall hold; be his Caution ever ſo great, he may be forced to make the *Spaniſh* Coaſts; he may be forced to come within Piſtol-ſhot of their Shore, let it be ever ſo diſtant from his Intention to carry on any Commerce there. For which Reaſon, my Lords, if we once admit our ſailing near their Coaſts to be a juſt Cauſe of Capture and Confiſcation, there muſt be an End of all our Commerce in *America*. But as our Seamen are ſubject to ſuch Difficulties in their Navigation on theſe Seas, this Claim of the *Spaniards* abſolutely deſtroys the Freedom of Navigation. By the Law of Nations the High Seas are open to all, and it is an Act of Piracy to ſearch or riſle any Ship navigating thereon.

'Thus, my Lords, according to this Claim of *Spain*, an Order for Reſtitution, even in the moſt unjuſtifiable Caſes of Confiſcation, can be of no Service to our Sufferers, when clogged with Proviſoes which 'tis impoſſible for them to remove. But if the noble Lord will give an Inſtance wherein that Court orders Reſtitution to be made of any Ship, becauſe taken upon the open Seas; if he can ſhew us, that the *Spaniards* ever once acted, in confiſcating an *Engliſh* Ship, according to the fundamental Maxim of all our Navigation in theſe Seas, namely, *No Search but in Port*; then I ſhall agree with his Lordſhip, That it may be rather owing to certain accidental Cauſes, that the Differences betwixt our Court and that of *Spain* has ſo long ſubſiſted, than to any excluſive Right which the *Spaniards* pretend to on theſe Seas.

'The noble Lord, indeed, very rightly obſerv'd, that a great many Circumſtances concurred to create frequent Differences betwixt the *Britiſh* and *Spaniſh* Subjects in *America*; ſuch as the Contiguity of the Dominions of the two Crowns, and the different Genius of the People; but, my Lords, there is no other Way of removing theſe Obſtacles, but by preventing all Diſputes about Property, Navigation, and Commerce, by ſtrictly adhering to the Maxim, *No Search*. If

Ann. 12 Geo. II. 1738-9.

we do not adhere to it, my Lords, if we admit of the Claim of *Spain*, in the ſmalleſt Degree, we muſt have eternal Jars and Differences with them; they will always find Pretences to obſtruct and ruin our Commerce.

'Having ſpoken in general to this Point, it may be now proper to take notice of what fell from the noble Lord, in the particular Obſervations he made upon every Article of this Treaty. His Lordſhip remarked, that the *Spaniards* have ſhewn, by the Preamble, a ſincere Deſire to yield to our juſt Demands. My Lords, I can't perceive wherein this Sincerity conſiſts. If they were ſo very ſincere, why did they not give us an ample Security for our Navigation, in the Terms contain'd in your Lordſhips firſt Reſolution upon this Head, which you came to laſt Seſſion? We there ſee that our juſt and undoubted Rights are founded on the expreſs Words of Treaties. What Neceſſity, therefore, of appointing Plenipotentiaries to decide Differences? I am ſorry, my Lords, to ſee that Word at all made uſe of upon this Occaſion; it implies a Doubt, and that ſomething might be ſaid on one Side as well as on t'other. This, my Lords, is a Conceſſion which we ought to be very cautious in making, or even ſeeming to make: If any Differences were to be referred to a future Diſcuſſion, it ought to have been thoſe relating to the Limits and Boundaries of the two Nations. This might have been decided by Commiſſioners meeting on the Spot, or by explaining the Words of Treaties relating thereto. But we ought not to have admitted our juſt and undoubted Rights to Navigation to be put on the ſame Foot with a diſputed Boundary.

'The noble Lord lays a good deal of Streſs on the Care of our Miniſtry in procuring a definitive Satisfaction for paſt Loſſes. My Lords, if I could be ſenſible that they had effected even this Point, I ſhould be very willing to join with the noble Lord in his Encomiums upon our Adminiſtration. But, even by the noble Lord's own Account of it, it is but a very ſorry Satisfaction. The Demands of our Merchants amounted to 247,000*l.* they uncontrovertably proved, not only before the Commiſſaries in *Spain*, but at the Bar of both Houſes of Parliament, that they were Sufferers to that amount, and conſequently that they had a Right to that Sum without any Deduction. But a Deduction is made of 47,000*l.* For what Reaſon, my Lords? For none that ever I heard, but becauſe the *Spaniards* would have it ſo. Not contented with this, 45,000*l.* more muſt be deducted for prompt Payment. Prompt Payment of what? Of a Debt contracted by Rapine and Plunder. I have heard, indeed, when a Debt was contracted by the mutual Conſent of the Parties, and

payable at a certain Term, that one of the Parties has made a Deduction of a proportionate Sum of the whole for prompt Payment. But, my Lords, was this the Caſe betwixt the *Spaniards* and us? Were we obliged to accept of Payment in what Manner, and at what Term, his Catholic Majeſty thought fit? Were our Merchants reduced to ſuch a Paſs for want of ready Money, that they were glad to deduct near a Fourth of their Sum for prompt Payment? But, my Lords, it can't even be called prompt Payment; for we find, by the firſt ſeparate Article of the Convention, that his Catholic Majeſty is not obliged to pay it till four Months after the Exchange of the Ratifications. Now, my Lords, let me ſuppoſe a Caſe that is very poſſible: Your Lordſhips ſee, by the firſt Article of the Convention, that the Plenipotentiaries are to meet at *Madrid*, within forty Days after the Exchange of the Ratifications. It is poſſible they may not agree, the Conferences may be broke up the firſt ſitting; then all Negotiation is at an end, and the Sword alone muſt decide it. Will the *Spaniſh* Court, in this Caſe, think itſelf obliged to pay that Money? Does their Behaviour in Times paſt give us room to imagine that they will look upon this Debt as binding upon them, when all other Conditions betwixt them and us are broke through? So that, though the noble Lord has been pleaſed to repreſent this Stipulation in favour of our Merchants as definitive, yet when we look into the whole of this Tranſaction, it is, in reality, eventual, and depends on the Iſſue of the future Conferences.

'There are one or two Circumſtances more, that I muſt obſerve, with regard to the boaſted Satisfaction. I find, that though the Sum allowed to our Merchants is 155,000 *l.* yet 95,000 *l.* only is to come out of his Catholic Majeſty's Pockets. How comes this? Says the noble Lord, we allow 60,000 *l.* as a Balance due to the *Spaniards*, in conſideration of their Loſſes ſuſtained by the Sea Fight off *Paſſaro*, which we had engaged by Treaty to make good to them. But in what Manner were we to make them good? We agreed that they ſhould have all the Ships then taken reſtored to them, with the Guns, Sails, Equipage, in the Condition they were then in, or if ſold, they were to have the Price that was paid by the Purchaſers. Whoſe fault was it, my Lords, that this Stipulation was not punctually fulfill'd? Was it not owing to the *Spaniards* themſelves, who refuſed to accept of thoſe Ships when offered to them? And are we to pay 60,000 *l.* for no other Reaſon but becauſe the *Spaniards* muſt be gratified in every extravagant Demand?

'But, my Lords, this is not all; his Catholic Majeſty tells us farther, that, before he fulfils one Article of this Conven-

Ann. 12 Geo. II. 1738-9.

tion, our *South-Sea* Company must pay to him 68,000 *l.* more which is the same Thing as telling us, that, in Effect, no more than 27,000 *l.* is to come out of his Pocket. It is in this Light, my Lords, that I view the Protest given in, by his Catholic Majesty's Minister, to Mr. *Keene*. The paying of this 68,000 *l.* is, by that Declaration, made an absolute Condition, without which the Convention cannot so much as exist. Now, my Lords, though I don't say this demand of the Court of *Spain* is founded on Justice, and though I shall allow the Declaration has not that mark of Authenticity with the Convention itself; yet I make no doubt but the *Spaniards* will look upon the *South-Sea* Company's refusing to pay the Money, as a just Reason for their refusing to fulfil any one Article of the Convention. I say, my Lords, they will pretend that this Refusal gives them such a Right; and though I am far from admitting that Right, yet if they stick by that Pretence, it is the same Thing in effect to our Merchants, as if they had such a Right, and this Nation must be left to the Ignominy of submitting to treat anew. Thus, my Lords, I think it appears, that the Stipulation in favour of our Merchants, is so far from being definitive, that it depends upon two very uncertain, nay improbable Events; a right Understanding betwixt the Plenipotentiaries, and the *South-Sea* Company's agreeing to pay 68,000 *l.*

'The noble Lord was pleased to consider this Stipulation, as it is called, in favour of our Merchants, as a Disavowal, on the Part of *Spain*, of all the unjust Claims and Pretensions she had set up, and paying Damages for the Wrongs she has done us. My Lords, I wish I could prevail with myself to consider this Article in that Light. But it appears to me, that the *Spaniards* are so far from disavowing their unjust Claims, that this Article is a kind of Aggravation of them. We insisted on Satisfaction for the Losses of our Merchants; the *Spaniards* tell us, that they will give us some small Satisfaction, but clog it with such Terms, as they are sure we cannot comply with. This is the same Thing as telling us, that if we will gratify them in one extravagant Demand, they will gratify us in another. Thus, my Lords, they are far from owning themselves to be in the Wrong. But, my Lords, here is another Circumstance to be considered: The King of *Spain* expects that the *South-Sea* Company shall pay him, within a short Time, the 68,000 *l.* whereas he does not, by the Convention, oblige himself to pay the 95,000 *l.* till four Mounths after the Ratifications are exchanged. Now, if his Catholic Majesty should think fit to fix this short Time, mentioned in his Declaration, at between two and three Months, he can pay us with our own Money.

Money. Nay, my Lords, if, before the four Months are expired, the Conferences of the Plenipotentiaries ſhould break up, he has then 68,000 *l.* of our own Money in his Pocket, and will very probably, think himſelf under no Obligation of paying back one Shilling of it in Conſideration of our Merchants Loſſes. The Stipulation, therefore, of the 95,000 *l.* is ſo much farther from being a definitive Article for the Relief of our Merchants, and an Acknowledgment on the Part of *Spain* for the Wrong done us, that it appears to be only a Bait for drawing us in, to pay 68,000 *l.* upon an unjuſt and arbitrary Claim. Ann. 12 Geo. II. 1738-9.

The noble Lord was pleaſed to ſay, that the Miniſtry had proceeded on the ſame Foundation with your Lordſhips, and laboured to effect the ſame End. My Lords, this will be beſt ſeen by comparing your Reſolutions in the laſt Seſſion with the Stipulations in the Convention. Your Lordſhips reſolved, That it was the juſt and undoubted Right of the Subjects of *Great Britain*, to ſail from one part of his Majeſty's Dominions to another, without being ſtopp'd or ſearch'd on any Pretence whatſoever. Is there any Stipulation in the Convention, my Lords, anſwerable to this Reſolution? We there find, that this Right is ſo far from being acknowledged to be juſt and undoubted, that it is ſubmitted to the diſcuſſion of Plenipotentiaries, who have eight Months allotted them, to conſider of the Juſtice of a Point, which, your Lordſhips have already found, can admit of no manner of Diſpute. But, adds the noble Lord, theſe Plenipotentiaries are tied down to proceed according to the Treaties ſubſiſting betwixt the two Crowns, which Treaties effectually ſecure our Navigation and Commerce. My Lords, I can by no means admit of the Inference, which the noble Lord would draw from this, that the *Spaniards* agreeing to proceed according to Treaties, is equivalent to an ample Renunciation of their Claim to ſtop and ſearch our Ships. If the *Spaniards* had ever, in plain Terms, refuſed to abide by what is ſtipulated in theſe Treaties, I ſhould then readily admit this Article of the Convention to be a ſufficient Confirmation of their Validity. But that is not the Caſe, my Lords; the *Spaniards*, ſince the beginning of all our Differences, have always expreſſed a great regard to theſe Treaties; your Lordſhips ſee, by the Papers lying on your Table, that their Miniſter affects to abide by what is there ſtipulated, and to plead for no other Right then what is warranted by theſe Treaties. So that, it is very probable, the *Spaniards* look upon this Article as an Acknowledgment of their Demands. The very Reaſons given by the noble Lord, why we ſhould look upon it as an Acknowledgment in our Favour,

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Ann. 13 Geo. II. 1738-9.

operate equally on their Side. For, if we are to believe that they underſtand them in the ſame Senſe with us, becauſe we have already explained them, may they not believe that we underſtand them in the ſame Senſe with them, for the ſame Reaſon? Thus, my Lords, the very Argument urged by the noble Lord for our looking upon this Stipulation as equivalent to an expreſs Renunciation on the Part of *Spain*, is, in my humble Opinion, the ſtrongeſt Reaſon that could poſſibly have been urged to the contrary. If as the noble Lord ſays, we can acquire nothing new by any definitive Treaty, I ſhould be glad to know to what purpoſe the Nation has been put to ſuch a vaſt Expence in Armaments, and to what purpoſe the Negotiations have been protracted ſo many Years? My Lords, I conceive we have a great deal to obtain, we are to obtain an expreſs Acknowledgment on the Part of *Spain*, that ſhe diſclaims all her Pretenſions to ſtop or ſearch our Ships on the open Seas. But this I ſuppoſe to have been the Language of our Negotiators at the *Spaniſh* Court:—Will you conſent to the Point of *no Search*? And that their anſwer was, *We will not.* Should our Miniſters then have been ſatisfied with it? No. They ſhould have ſaid,—*We will proceed no further:*—Then, my Lords, if a Rupture had enſued, the Support of Parliament, and the Voice of the Nation, would have bore them out in all their Proceedings. My Lords, if we had obtain'd a previous Acknowledgment of this nature, I don't know that all the remaining Differences, on that Head, could have been important enough to merit a Place in a definitive Treaty; becauſe no Caſe could happen, in our *American* Navigation, that could have created the leaſt Diſpute. On the other Hand, my Lords, without ſuch an expreſs Acknowledgment, a definitive Treaty, let it be conceiv'd in ever ſo ſtrong Terms, will be found ineffectual, and we ſhall have the ſame Round of Negotiations to begin, and the ſame Expences to repeat. The noble Lord made a Suppoſition, that we can be no Sufferers, even though the *Spaniards* ſhould underſtand theſe Treaties in a Senſe different from us; nay, that we muſt be Gainers, ſince, in the worſt Event, it is but going to War. For, ſays his Lordſhip, we can then go to War with 95,000 *l.* more in the Nation. I have already conſidered what Probability there is, that the *Spaniards* will ever pay that Sum out of their own Pockets; but give me leave to obſerve, my Lords, that, though they ſhould pay it, this Nation may ſoon loſe ten times that Sum, ſince its Subjects have no ſecurity for carrying on their Trade in *America*, during the eight Months theſe Plenipotentiaries are ſitting. The very Stipulation, which refers the Security of

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our Trade there, to a future Diſcuſſion, admits it to be a doubtful Point; and as there is no Article in the Convention to bind the *Spaniards* up from continuing their Depredations, are we not to preſume that they will look upon themſelves at Liberty to continue them till the definitive Treaty is concluded? Hence, my Lords, there muſt be a total Interruption of our Trade to our Colonies in *America*, during that Time, or we muſt carry it on under evident Diſadvantages. Ann. 12 Geo. II. 1738-9.

'Now, my Lords, I ſhall, as I propoſed, take the Liberty to conſider how well this Treaty agrees with the Reſolutions your Lordſhips came to on this Head. I have already partly taken notice of the firſt; and give me leave to add, my Lords, that if our Negotiators had kept that Reſolution in their Eye, as they ought to have done, an Article, or a Conceſſion, founded upon it, muſt have anſwered all the Purpoſes of their Negotiations, with regard to future Security. For if, as that Reſolution implies, there can be no ſuch thing as contraband or prohibited Goods in *Britiſh* Ships ſailing from one Part of his Majeſty's Dominions to another, the *Spaniards* cannot have the leaſt Pretext for ſtopping or ſearching them, unleſs they are found actually trading in their Ports.

'The next Reſolution, my Lords, ſays, "That *Britiſh* Ships have been violently ſeiz'd and confiſcated by the *Spaniards*, upon Pretences altogether unjuſt and groundleſs, and that the Sailors on board ſuch Ships have been injuriouſly and barbarouſly impriſoned and ill-treated." Now, as your Lordſhips found this to be a Fact, I ſhould be glad to know what Reaſons the Negotiators of this Convention can aſſign for our not obtaining Satisfaction for theſe Inſults and Barbarities. Is this Nation, my Lords, uſed to bear ſuch Treatment, without receiving any Satisfaction? Are we ſo much reduced, are we ſo much deſpiſed, that we are obliged to confine our Complaints within ourſelves? Are our Merchants and Sailors, the two moſt valuable Bodies of Men among us, to be thrown out of the Protection of the Kingdom? And are the Liberties of the Subjects of *Great-Britain* to lie at the Mercy of an inſulting Enemy? In private Caſes, my Lords, betwixt Man and Man, Regard is had to Interruption of Buſineſs, Coſts are given for the Loſs of Time, and much more for the Loſs of the Liberty or Limbs of the Perſon injur'd. But, it ſeems, in a national Caſe, where the Honour of a whole People is concerned, no Conſideration is to be had. My Lords, I am ſorry that any ſuch Diſtinction ſhould obtain amongſt a free People; I am ſure, if we long ſuffer any ſuch Diſtinction to take place, we ſhall not be long free. If

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Ann. 12 Geo. II. 1738-9.

the World ſhall once entertain an Opinion, that our Miniſters are ſo weak that they dare not, or ſo wicked that they will not, aſſert the Honour of the Nation, we ſhall be ſoon ſubject to the Inſults of every petty State in *Europe*.

'Your third Reſolution, my Lords, ſays, 'That the frequent Applications made at the Court of *Spain*, on our 'part, for redreſſing theſe notorious Abuſes and Grievances, 'for preventing the like for the future, and for obtaining adequate Satisfaction, have proved entirely fruitleſs and of no 'effect.' It is plain, that your Lordſhips Intention, in coming to this Reſolution, was, that theſe Applications might be more effectual when back'd by the Concurrence and Authority of Parliament. But does it appear that they have had any Weight? Is there one Stipulation in this Convention that can be call'd ſatisfactory, either to the Honour of the Nation, to our Merchants, or to our Sailors? Can the beſt Friend of the Convention pretend, that the Sum ſtipulated for their Relief is adequate to their Loſſes? No, my Lords, I think that Point is entirely neglected. So that it muſt be own'd, that your Reſolutions were not deſign'd to have any Effect on the Meaſures to be purſued, or that our Miniſters have taken Care they ſhould have none.

'The ſecond Article of the Convention, my Lords, relates to the Regulation of the Limits of *Florida* and *Carolina*. Every Man in the Nation is ſenſible how deeply the national Honour is engaged in the Preſervation of our Settlement in *Georgia*, which is a Part of *Carolina*; but, it ſeems, the *Spaniards* claim it as a Part of *Florida*. The Nation has been at immenſe Charges in ſettling and ſupporting that Colony; and ſhould we now give it up, or even ſuffer our Poſſeſſion of it to be called in queſtion, all *Europe* muſt look upon us, either as the moſt unjuſt, or moſt weak People under the Sun. Our Injuſtice muſt appear, by our diſpoſing of, in Property to others, a doubtful Territory; and our Weakneſs muſt appear, in ſuffering any Part of the Property of this Nation, or its Subjects, to be determin'd by the Event of any Negotiation whatſoever. The Proviſion made by the latter part of this Article, that the Fortifications ſhall not be encreaſed, but remain in the Situation they are in at preſent, to me, bears a very unpromiſing Aſpect. To me it appears, that we are ſomewhat worſe than doubtful of our Right to that Colony; that there is a Deſign to give up its Inhabitants to the Mercy of *Spain*, if our wiſe Plenipotentiaries ſhould, by their full Powers, think fit to declare the Poſſeſſion of this Tract to that Crown. My Lords, the People of *Georgia* tranſported themſelves thither upon the Faith of Parliament, and they have been at great Expences, Labour

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and Induſtry, to make a Settlement there. It will be, therefore, no wonder, ſhould they be obliged to abandon it, if they think themſelves very hardly, very unjuſtly treated. But how hard, how unjuſt, ſhould they ſee themſelves abandoned to the Mercy of their Enemies, through the Weakneſs of our Negotiators! In ſuch Caſe, my Lords, I cannot conceive how any Subject of this Crown, whoſe Property lies in *America*, can think himſelf ſecure of enjoying it. For, my Lords, I will venture to ſay, that our Right to *Georgia*, is as clear and undoubted as our Right to any Part of *America*; but though we have had a long and an uninterrupted Poſſeſſion of that Territory, it is now diſputed by the *Spaniards*. The late King *Charles* II. made a Grant of it to certain Proprietors, whoſe Property the Parliament bought out ten Years ago, at a conſiderable Expence. The Legiſlature has granted large Sums to ſupport this infant Colony; and the *Spaniards*, ſo far as appears to the World, never queſtioned our Right of Poſſeſſion, till the Inhabitants had made a great Progreſs in clearing the Ground, and erecting Houſes. My Lords, I do not poſitively affirm that our Plenipotentiaries will give up this Settlement, but, I think, it is ignominious to this Nation, to ſuffer ſo much as her Right of Poſſeſſion to be queſtioned. It is a Proſtitution of the public Faith, and giving our Plenipotentiaries a Power, which no Plenipotentiaries of this Crown ever had before, to diſpoſe of the Property of the Nation, without obtaining the leaſt Equivalent

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'But, my Lords, ſetting aſide theſe Conſiderations, I cannot account for ſome late Meaſures, if our Right to *Georgia* is in the leaſt queſtionable. Though the Pretenſions of the *Spaniards* to this Colony are but of a very late Date, yet they are older than the Regiment we have raiſed for its Defence. And, my Lords, if we were not reſolved, at all Events, to keep Poſſeſſion of it, why was the Nation put to the Expence of raiſing this Regiment, and of 10,000*l.* for a Train of Artillery, and other Stores and Neceſſaries? If, on the other hand, it is intended that theſe Forces ſhould do their Duty, in caſe of an Attack from the *Spaniards*, and to ſupport our Right by Arms, where is the Conſiſtency of ſubmitting this Right to the Deciſion of Plenipotentiaries? Why was the Nation put to ſo great an Expence, ſince it muſt be all loſt, if our Plenipotentiaries ſhould yield up this Point? However, my Lords, by this Article we expoſe his Majeſty's Forces to the Mercy of their Enemies: Or ſhould the Plenipotentiaries abruptly break off their Conferences, immediate War muſt unavoidably follow. What a Condition then muſt all the Subjects of *Great-Britain* in theſe Parts be in!

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By this Article they are disabled from taking the necessary Precautions to defend themselves. We have no Fortifications there at this Time, that can be of any Service, or afford any Protection to our Troops, in case of a Rupture. And the *Spaniards* have a Fort in the Neighbourhood, from whence they can annoy us, and are not above three Days Sail from the *Havanna*, from whence they can be supplied with Troops and Provisions.

'The noble Lord supposed the Differences betwixt us and the *Spaniards* to be only about some Encroachments made by our Subjects upon the Frontier of *Spain*. But, my Lords, I believe it will be found upon Examination, that their Pretensions are to the whole Settlement, and that they dispute our Right, even to *Carolina*. And, my Lords, I don't see why they might not as well have claim'd *Jamaica* itself; since, if one Reason for surrendering up *Carolina* or *Georgia* can be given, I will engage to give two for our surrendering up *Jamaica*. For the first we hold by vertue of prior Possession, which is all the Right the *Spaniards* have to every Foot of Land they possess in *America*; and this was not only never before disputed, but is confirm'd by Treaty. Now, my Lords, our Right to *Jamaica* is indeed no better than a Right of Conquest; and the *Spaniards* have not yet been prevail'd with to renounce it. As it therefore was conquer'd from them in Time of Usurpation, I should have been less surpriz'd, if by this Convention our Negotiators had consented that all the Inhabitants and Forts of that Island should be disarm'd, till such time as they could determine which Crown should enjoy it.

'What I have already said, my Lords, comprehends in a great measure, my Objections to the third Article of this Convention. I shall only add, that I cannot see by what Authority any Commissary whatsoever could take upon him to dispose of the Property of private Subjects. I don't know that our Constitution vests our Minister with any such Powers. An *Englishman* has a good Action against the greatest Minister, in whatever Capacity he acts, nay against the King himself, if he apprehends that his private Property is invaded. But here, my Lords, it is invaded and disposed of in favour of a foreign Power, a Power which has shamefully wrong'd them, and yet they are to have no Relief.

'It has been much insisted on, my Lords, that this Satisfaction to our Merchants is a tacit Acknowledgment on the Part of *Spain*, that she has been in the Wrong. But, my Lords, if *Spain* acknowledges herself to be in the Wrong, can any Man shew me a Reason why we should give *Spain* 89,000 *l.* upon no other Account than because *she was in the Wrong?*

Wrong? If our Negotiators, my Lords, have a Mind to be thus exceſſively generous, I hope they will pay the Deductions they made out of their own Pockets; I am ſure, if they do not, our Merchants have very juſt Grounds to call them to an Account. But, my Lords, there is a great Difference betwixt a Stipulation to pay Money, and the actual Payment of it. Notwithſtanding what was ſaid by the noble Lord about the Difficulties of our being paid in any other Manner than that ſpecified by this Convention, I cannot but be of Opinion, that if his Catholic Majeſty had been ſincerely diſpoſed to pay this Money, he might have eaſily commanded ſuch a Sum as 95,000 *l.*

'However, there is ſomething very inconſiſtent in the Allowance made for the *Spaniſh* Fleet deſtroy'd in the Naval Action twenty Years ago. If we had ever diſown'd the Juſtice of our attacking them at that Time, if we had ever called any of our Officers or Miniſters to an Account for what happen'd, it would have been juſt in us to have given them Satisfaction for the Loſs they then ſuſtain'd. But, ſo far from that, my Lords, the Action was applauded by every Power abroad, it was approv'd of by our Government at Home, and the Admiral, who conducted the Expedition, was, for his good Service then perform'd, created a Lord, by a wiſe and diſcerning Prince: So that, my Lords, from this Stipulation, it may be truly ſaid of our Government, that it approves at Home, what it dare not juſtify Abroad.

'The Importance of the fourth Article, my Lords, has been greatly magnified, even ſo far, as to ſhew that his Catholic Majeſty repoſes entire Confidence in our Court, ſince he thereby agrees to pay by his Governors in *New Spain* a Sum that, for aught he knows, may have been paid abroad. But this, my Lords, can never paſs with any Man, who obſerves in what Manner things are manag'd betwixt the Court of *Spain*, and the Governors of their Settlements in *America*. The Court knows very well that theſe Governors are neither obliged nor willing to make any ſuch Payment. And, even though the Value of theſe Ships were actually paid, I do not ſee how the *Spaniſh* Court can be ſaid to repoſe any Confidence in his Majeſty, or the Miniſtry here. For, my Lords, as the whole Sum of 95,000 *l.* is not payable till four Months after the Ratification, the *Spaniſh* Court had ſufficient Time, betwixt the ſigning this Convention and the Term of Payment, to inform themſelves whether this Money had been paid or not. If it has been paid, they have only to acquaint their Miniſter here, and he will, no doubt, take Care to diſcount it out of the whole Sum; ſo that, I think, my Lords,

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they have taken Care that we ſhould not over-reach them in this Article.

'I have but two more Facts to trouble your Lordſhips with; but they are of ſuch a Nature, as to ſerve clearly to inform us in what Manner the *Spaniards* intend to fulfil this Convention, and in what Senſe they underſtand the Treaties now ſubſiſting betwixt us and them. The firſt Fact is upon the Face of the Convention itſelf. The ſecond ſeparate Article, my Lords, ſtipulates, that the Owners of the Ship the *Succeſs* ſhall give Security to the *Spaniſh* Miniſter at *London*, to abide by what ſhall be determined by the Plenipotentiaries with regard to that Ship. And, my Lords, by the ſame Article it is owned, that that Ship was taken as ſhe was coming from the Iſland of *Antigua*. Thus, my Lords, we ſee in expreſs Terms, that it is admitted by our Miniſters to be a doubtful Caſe, whether or not a Ship ſailing from one of our own Iſlands, not ſo much as pretended to be near one of the *Spaniſh* Colonies, may be a lawful Prize. After this unforced, genuine Import of this Article, what becomes of all the Conceſſions made to us. on the Part of *Spain*, by this Convention? If the Merchants of this Nation ſhall find, that a Ship ſailing from one of our own Colonies, under *Engliſh* Colours, and navigated by *Engliſhmen*, is confiſcable by the *Spaniards*, or, at leaſt, that it is doubtful if ſhe is confiſcable or not, who amongſt them can be ſuppoſed ſo fooliſh, as to hazard one Shilling of their Effects on board a Ship in theſe Seas, where their Enemies can act with ſuch Injuſtice and Impunity? I know, my Lords, it has been ſaid, that this Reference to the Plenipotentiaries is only with regard to the Value which is to be paid for the Ship, in caſe ſhe is not ſpecifically reſtor'd; but, by the Words of the Article itſelf, it is quite otherwiſe. For this Ship was taken on the 14th Day of *April*, in the 11th Year of his preſent Majeſty, and the Determination of all Caſes of Capture, that have happened ſince *December* laſt, is referred to theſe Plenipotentiaries to be determined according to Treaties. So that, my Lords, this Article ſays, in effect, that it being doubtful by Treaties how far an *Engliſh* Ship, ſailing from an *Engliſh* Colony to *Great-Britain*, is liable to be ſeized and confiſcated by the *Spaniard*, therefore the Senſe of theſe Treaties muſt be determined by two *Spaniſh* and two *Britiſh* Plenipotentiaries.

'The next Fact, my Lords, I am to mention, is a Fact which your Lordſhips heard at the Bar of this Houſe, from the Perſon who was principally concerned. It is the Caſe of Capt. *Vaughan*, who was taken by the *Spaniards*, his Ship confiſcated, and himſelf impriſoned at *Cadiz*, where he was detained for ſeveral Weeks after the Convention was ſigned.

My

My Lords, this was a plain Explanation on the part of *Spain*, that her Miniſters underſtood the Treaties named in this Convention, in a Senſe quite different from that of this Houſe; and that ſhe ſtill expects, nay, is reſolved, to exerciſe, not only her Claim of ſtopping, ſearching, and confiſcating our Ships, but the Right which ſhe has uſurped of impriſoning and maltreating the Subjects of this Nation. This, my Lords, our Miniſters themſelves cannot but be ſenſible of, ſince it appears, that our Plenipotentiary at that Court uſed his utmoſt Endeavours to obtain the Captain's Releaſe, but all in vain, till they had ſatisfied their Malice. Our Miniſter, my Lords, preſented Memorial after Memorial; but that Captain's Letters plainly and honeſtly tell us, it is not Memorials that will heal his Wounds. My Lords, the manly Expreſſions in thoſe Letters, that Language of Liberty in a State of Confinement, touch'd me to the Quick. And this Fact, my Lords, muſt give us ſufficiently to underſtand, that the *Spaniards* will think themſelves under no manner of Obligation, from the Convention, to diſcontinue their Depredations and Barbarities. For if, as the noble Lord inſiſted, this Treaty is a Diſavowal of their unjuſt Claims, why did they continue the Exerciſe of them, in the Perſon of this Man, after that Diſavowal was made?

'Having ſaid thus much, my Lords, with regard to the Convention itſelf, I ſhall trouble your Lordſhips with a very few Words on the Subject of the Addreſs moved for. Addreſſes from the Parliament to the Crown have always been, or ought at leaſt to have been, looked upon as the beſt Informations which the Prince can receive, not only of the Intereſt, but the Senſe of the Nation. And, my Lords, if we agree to this Addreſs, I am afraid we ſhall act contrary both to the Duty we owe to his Majeſty, and that Regard we ought to have to the People: We ſhall miſlead his Majeſty into a Belief that this Convention is for the Intereſt of the Nation; and we ſhall wrong the Subjects, by miſrepreſenting their Senſe. I believe, my Lords, the greateſt Friend that our Miniſter has, will not affirm that the Nation is not thoroughly and univerſally diſſatisfied with this Meaſure. I am far from being againſt our expreſſing the warmeſt Sentiments of Duty and Affection to his Majeſty. I know his paternal Regard for every Thing that concerns his Subjects, and that he is as ready to redreſs their Grievances, as they are to lay them before him. We have repeated Aſſurances, from his own Mouth, that he is ſenſibly concerned for the Hardſhips they ſuffer by the Injuſtice of the *Spaniards*. And, my Lords, if we ſhould, by an ill-timed Addreſs, tell him that they are removed by this Convention, we thereby pay a Compliment

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to the Throne, that may be fatal both to ourſelves and to Poſterity.

'I think, my Lords, I have made it appear that this Convention is deſtructive and diſhonourable to this Kingdom, and ſo far from healing the yet bleeding Wounds which our Commerce has received, that it lays it open to greater Inſults, and expoſes the Perſons of our Sailors to, if poſſible, ſtill greater Barbarities. Can we congratulate the Crown for bringing the Demands of its Subjects to a final Adjuſtment, when the Sum ſtipulated for their Relief amounts not to the Value of the Fourth Part of what they have loſt? When the Payment to of that poor Pittance is precarious? Can we ſay that a Foundation is laid for accompliſhing the great and deſirable Ends of obtaining future Security, and preſerving the Peace between the two Nations, when it is evident, beyond all Contradiction, that future Security is ſo far from being obtain'd, or a Foundation for it laid, that no other Foundation is laid, but for a Claim abſolutely and irretrievably to ruin all our Colonies, all our Intereſts, all our Commerce in theſe Parts? This may indeed be ſaid to preſerve Peace betwixt the two Nations, becauſe it will diſable us from ever being in a Condition to make War.

'In ſhort, my Lords, our All may be ſaid now to be at Stake. Upon your Lordſhips Behaviour To-day depends the Fate of the *Britiſh* Nation. I don't often ſpeak in the learned Languages: But I am afraid, my Lords, the prophetic Phraſe, which I once heard a moſt learned Lord pronounce, *Venit ſumma Dies*, will now be verified. This Nation has, my Lords, hitherto maintained her Independancy, by maintaining her Commerce; but if either is weakened, the other muſt fail. It is by her Commerce, my Lords, that ſhe has been hitherto enabled to ſtand her Ground againſt all the open and ſecret Attacks of the Enemies to her Religion, Liberties, and Conſtitution. It is from Commerce, my Lords, that I behold your Lordſhips within theſe Walls, a free, an independant Aſſembly; but ſhould any Conſiderations influence your Lordſhips to give ſo fatal a Wound to the Intereſt and Honour of this Nation, as your agreeing to this Addreſs, it is the laſt Time I ſhall have occaſion to trouble this Houſe. For, my Lords, if we are to meet only to give a Sanction to Meaſures that overthrow all our Rights, I ſhould look upon it as a Misfortune for me to be either Acceſſary or Witneſs to ſuch a Compliance. I will not only repeat what the Merchants told your Lordſhips, *That their Trade is ruined:* I will go farther, I will ſay, The Nobility is ruined, the whole Nation is undone. For I can call this Treaty nothing elſe but a Mortgage of your Honour, a Surrender

render of your Liberties. I therefore hope that your Lordſhips will aſſume that Character which dignifies this Houſe: That you will be the impartial, the uninfluenced Adviſers of his Majeſty on this great and deciſive Affair. And that, if you preſent any Addreſs on this Occaſion, it may be ſuch as will ſpeak the Sentiments of every diſintereſted Man in the Kingdom, and a Firmneſs not to be ſhaken by any Confederacy whatever. But, my Lords, what Reaſon is there to fear that *France*, or any other Nation, will abet *Spain* in her unwarrantable Claim of Dominion in the *American* Sea, or her unreaſonable Interruption of Commerce? It is Commerce, my Lords, which enriches *France*; it is Commerce, which ſupports the *French*; from that Fountain flow all their Wealth, Strength and Glory. Can we therefore imagine that any Nation, whoſe Intereſts have ſo cloſe a Dependence upon a free and uninterrupted Navigation, will enter into any Meaſures, in Conjunction with *Spain*, to oppoſe thoſe Rights of another People, which would ſo nearly, ſo ſenſibly affect themſelves? Upon theſe and many other Conſiderations, which I have no Occaſion to trouble your Lordſhips with the Repetition of, I will pay the laſt Duty to my Country, and put my Negative upon this Queſtion.'

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The Biſhop of *Saliſbury*.

Biſhop of *Saliſbury*.

'My Lords, It may ſeem a very bold Undertaking, after what has fallen from the noble Lord who was laſt up, to attempt to ſpeak in favour of the Convention. The noble Lord, who has improved his great natural Talents by long Experience and Obſervation, has given ſo many Reaſons, and with ſuch Strength, againſt this Meaſure, that nothing but an entire Conviction of its being for the Honour and Intereſt of this Nation, could have induced me to trouble your Lordſhips with any Thing by way of Reply to what his Lordſhip has advanced. But, my Lords, when I conſider, that there is no Mind ſo diſintereſted, no Judgment ſo ſound, as not, on certain Occaſions, to be ſuſceptible of Prejudice, and a wrong Bias, I think it my Duty to lay before you my Reaſons why I approve of this Addreſs. And this I am inclined the rather to do, becauſe the noble Lord has not, to my Apprehenſion, ſpoke to what confeſſedly ought to be the Foundation of all Treaties, I mean the Juſtice and Equity of the Thing, abſtracted from all other Conſiderations. If, my Lords, I ſhall make it appear to your Lordſhips Satisfaction, that this Convention is not only founded on both, but is agreeable to the trueſt Maxims of Policy, I know the noble Lord's

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Lord's Candour is ſuch, that he will readily agree to this Motion. On the other hand, my Lords, if any Lord ſhall anſwer what I have to ſay to the Satisfaction of this Houſe, if it ſhall be evinc'd, that this Convention deſerves all the hard Names the noble Lord has beſtowed on it, I ſhall be very ready to own my ſelf under the Power of Prejudice, and to agree to any Cenſure your Lordſhips ſhall think fit to paſs upon it.

'But, my Lords, before I enter into the Merits of the Convention it ſelf, give me leave to ſay ſomewhat with Regard to what is properly the Subject of this Debate. And firſt, my Lords, I muſt obſerve, that there cannot be any Danger, as the noble Lord apprehends, in approving of this Addreſs, even though we ſhould diſapprove of the Convention. For, what do your Lordſhips ſay in the Addreſs? You thank his Majeſty for laying this Convention before this Houſe. My Lords, this has been the Language of this Houſe, ever ſince it was a Houſe, as often as the Crown has thought fit to communicate to it any Treaty, or any Act of the Prerogative: Therefore, I am ſure, no Exception can be taken at this Clauſe. We next expreſs our juſt Senſe of the Royal Care in bringing the Demands of the *Britiſh* Subjects to a final Judgment, and procuring an expreſs Stipulation for a ſpeedy Payment. My Lords, I believe no Body pretends to deny this has been done, and I believe it will be as little diſputed, that this is the proper Iſſue to which the Demands of our Merchants ought to have been brought. We then thank his Majeſty for laying a Foundation for accompliſhing the great and deſirable End of obtaining future Security: And, my Lords, notwithſtanding all that the noble Lord, who ſpoke laſt, has advanced on this Head, I don't think he has ſaid one Word, which can prove that this Convention has not laid ſuch a Foundation. The Convention plainly ſtipulates, that the Treaties now in force betwixt the two Crowns, ſhall ſerve as a Direction for the Plenipotentiaries. If theſe Treaties are not a Direction, my Lords, I ſhould be glad to know by what other Rule our Plenipotentiaries could act, or what better Foundation could be laid. I am ſure your Lordſhips, upon them, built the Reſolutions you came to upon this Subject, and we never yet heard of any other Security we could claim for our Rights of Navigation and Commerce, but Treaties. Therefore, my Lords, I think there can be no Matter of Objection to our agreeing to this Part of the Addreſs.

'But, my Lords, the next Paragraph, in my Opinion, contains a full Anſwer to all that has fallen from the noble Lord who ſpoke laſt, with regard to our future Security. His

His Lordſhip inſiſted, that, in this Convention, your Rights of Navigation ought to have been expreſly ſecured againſt all Violation in time to come. My Lords, let us ſee how that Matter ſtands. The *Spaniards* and we have Differences; we fit out a Fleet to give Strength to our Negotiations; and they offer to treat. But our Differences are ſo many, and the Caſes ſo intricate, that the definitive Stroke muſt be a Work of Time. However, they ſoon agree to a Preliminary, in which they acknowledge the Validity of thoſe Treaties, by Virtue of which we claim our Right not to be interrupted in our Commerce. This, my Lords, is the plain and undeniable Fact. But what follows? The Preliminary comes to be conſidered in this Houſe, and the noble Lord objects to it, becauſe it is not a definitive Treaty. No, my Lords; but it ties the Miniſtry down from making any Treaty in Conſequence of this Preliminary, but ſuch a Treaty as muſt effectually ſecure you againſt all the Encroachments you have hitherto complained of. You tell his Majeſty's Miniſters, by this Addreſs, that you are not to be ſatisfied with any Treaty, in which *proper Proviſion ſhall not be made for Redreſs of the Grievances ſo juſtly complained of, and particularly that the Freedom of Navigation and Commerce in the* American *Seas may be effectually ſecured to his* Britiſh *Subjects, that they may enjoy unmoleſted*, pray mark, my Lords, *their undoubted Right of navigating and carrying on Trade and Commerce, from one Part of his Majeſty's Dominions to another, without being liable to be ſtopped, viſited or ſearched on the open Seas, or any other Violation or Infraction of the ſaid Treaties.*

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'Can Words be ſtronger than theſe, my Lords, to ſignify your Lordſhips Zeal for having the Rights of this Nation put out of all queſtion, and beyond all Violation? They contain almoſt the very Words of your Lordſhips Reſolutions, and the very thing which the noble Lord, who ſpoke laſt, has been pleading for: So that the noble Lord's Arguments could not be againſt our agreeing to this Addreſs, but againſt our Miniſtry, who have not performed Impoſſibilities in making a definitive, inſtead of a preliminary, Treaty, and in not working Miracles, by changing the natural Phlegm of the People, they were to treat with, into all the Vivacity and Diſpatch which the Impatience of our People at Home requires. There is no-body, I am ſure, knows better than the noble Lord does, that, if you treat with a People, you are to treat with them according to their predominant Genius and Diſpoſition; you are to yield to their Humours, that you may thereby gain a great deal to your own Intereſt. And it is well known, my Lords, that the *Spaniards* are a People who will give up a Point of Intereſt, before they

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they will give up a Point of Form. Therefore, as you preferred Peace, if it could be had upon reaſonable Terms, and as every thinking Man in the Kingdom was, I believe, ſenſible that a War with *Spain* was to be avoided, if we could do it conſiſtently with our Honour; I don't think that our Miniſtry could have anſwered to this Houſe, and to the Nation, if they had acted any otherwiſe than they have done.

'Having ſaid thus much with regard to the Addreſs, I come now, my Lords, to ſpeak to what I propos'd, the Nature of the Rights for which we contend, as founded on Reaſon. My Lords, I am very ſenſible that the *Spaniards* have been guilty of groſs Violations of Treaties, and, give me leave to ſay, that by this Convention they appear to be ſenſible of it themſelves. Therefore, by what I have to ſay upon this Head, I don't in the leaſt intend to juſtify them in their Violencies. Nor, my Lords, do I intend in the leaſt to weaken our Right to an uninterrupted Exerciſe of our Trade and Navigation on the *American* Seas. I hope, my Lords, that our Miniſtry will obtain as full an Ackowledgment of them all, as the beſt Friend of this Nation wiſhes. All my Intention is to prevent, as much as any thing I can ſay can prevent it, the Miſtakes which may otherwiſe ariſe about the Search and Viſit, from which we plead an Exemption; and the rather, becauſe the noble Lord, in what he ſaid formerly, and on this Occaſion, has, I think, pleaded for an Exemption which we cannot claim, either by Treaties, by the Law of Nations, or by the Practice of Nations.

'By the firſt general Treaty, my Lords, which we have with *Spain*, it is ſtipulated, That when a Ship of War belonging to the one Nation ſhall meet with a Trading Veſſel belonging to the other, that Ship of War may viſit ſuch a Veſſel, and if Prohibited Goods are found on Board, they are confiſcable. This Treaty, my Lords, extends to the mutual Poſſeſſions of both Crowns in *America*, as well as in *Europe*; and there being no Reſtriction to prevent this Viſit taking Place in *America*, as well as in *Europe*, it was plainly the Intention of the Contracting Powers, that no ſuch Exemption ſhould be pleaded by either, as the noble Lord contends for. The next Treaty was made three Years, or I believe, not above two Years, after, and was reſtricted to *America* alone. And, my Lords, this laſt Treaty confirms, in the very firſt Article, all the Stipulations of the preceding one, which it expreſly mentions. The mutual Prohibition of Trade is, by the eighth Article of this Treaty, repeated, though not more effectually ſtipulated, than it was by the preceding one; but this only proves, that the Contracting Powers look'd upon that Prohibition, as the great

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Baſis upon which all their Negotiations were to be founded: For we find, that the Treaty of *Utrecht* mentions the ſole Poſſeſſion of the *Spaniſh Indies* remaining to that Crown, as the principal Conſideration which was to be regarded. But, my Lords, what does this prove? Does it prove, as the noble Lord contends for, that our Ships can only be viſited in their Ports and Harbours? My Lords, give me leave to ſay, that if Treaties are wreſted in this manner, there is not a Treaty ſubſiſting betwixt us and any Power in *Europe*, which may not be conſtrued to Purpoſes that deſtroy the very End for which it was made. By all the Treaties in force betwixt us and the *Spaniards*, the Advantages ariſing from the Trade with their Settlements in *America* are reſerv'd to them; this is undeniable; but, according to the noble Lord, theſe very Treaties admit of a Conſtruction that puts it in our Power to run away with all that Trade, for it ſeems that a mutual Prohibition of Trade, is the very Thing by which we defeat all the Intention of ſuch a Prohibition, and make the Property of each Crown common to the other. I ſpeak, my Lords, of the Property of *England* as well as of *Spain*, becauſe, as the Prohibition is mutual, the Advantages ariſing from that Prohibition ought likewiſe to be mutual. Now, my Lords, give me leave to ſuggeſt to your Lordſhips in what manner we ſhould reaſon, and how we ſhould behave, if our Share of Property in *America* were larger than that of *Spain*, and if that of *Spain* were no larger than ours is at preſent. Should we, my Lords, ſuffer the very Means that are agreed upon as the proper Method of ſecuring that Property, to be the very Means of its being render'd quite uſeleſs to us? Conſider, my Lords, how the Caſe ſtands at preſent: We have no Trade, we ſay, with the *Spaniſh* Settlements in *America*, therefore there can exiſt no Object of Search. Therefore, let our Ships be ſeen hovering about their Coaſts for Days, nay Weeks together, they are not to aſk any Queſtions; as long as we don't go into their Ports and Harbours, they can't ſeize or ſearch, or ſo much as viſit, provided we keep at Sea, though but a Piſtol-ſhot from their Shores. Would we, my Lords, ſuffer any People in the World to brave us in that Manner? Should they but pretend to do it, is there a Man in this Nation who would not exclaim, who would not call loudly out for War to chaſtiſe their Injuſtice, and accuſe our Miniſtry of Cowardice, ſhould they refuſe it? To bring this Caſe, my Lords, ſtill nearer home to our own: Let us conſider in what manner we our ſelves think fit to treat all the other Nations of *Europe*, whom we ſuſpect to be concern'd in thoſe Practices of which the *Spaniards* now accuſe us. It

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is true, they are obliged to give us the Honour of the Flag, but this is a Right we don't claim by the Law of Nations, but by poſitive Treaties. But, my Lords, in what manner do we act when our Ships meet with any foreign Veſſel that is hovering within two Leagues of our Coaſt? Why, my Lords, we do the very ſame thing by them as the *Spaniards* do by us in like Circumſtances; we ſtop them, we examine if they have not been concerned in a clandeſtine Trade, in a Trade that is, or may be, detrimental to the Revenues of this Nation: And, my Lords, if we find that they have, the prohibited Commodities which they are laden with are ſeizeable and confiſcable. By a late Law, my Lords, the Caſes liable to ſuch Confiſcation are regulated in ſo ſtrict a manner, that, had the *Spaniards* proceeded againſt our *American* Ships, in like Circumſtances, with the ſame Severity, we muſt have heard of a great many more Captures than we have. That Law enacts, that if a Ship ſhall be found within two Leagues of our Coaſt, not proceeding on her Voyage with the firſt Opportunity, and if ſuch Ship ſhall have on Board ſix Pound Weight of Tea, or any Spirits in Caſks under ſixty Gallons each, except the Seamens Allowance, which is two Gallons a Man, ſuch Commodities become lawful Prize.

'There is, my Lords, one Circumſtance in our Commerce, that, I think, puts us entirely on the ſame Foot with the *Spaniards* in *America*; and that is, the Caſe of our Wool Trade. Our Wool we reckon to be a Staple Commodity of this Nation. The Exportation of it, on any Pretence whatſoever, is prohibited under the ſevereſt Fenalties. The ſame may be ſaid of our Tin, and our Fullers-earth. And, my Lords, we pretend ſpecifically to know theſe Commodities wherever they are found. Suppoſe, my Lords, one of our Ships of War ſhould meet with a *French* Ship laden with our Wool, Tin, and Fullers earth, ſailing from *England*: If theſe Commodities ſhould be found in ſuch a Ship, and if our Captains ſhould ſeize them, would the *French* think they had a right to reclaim ſuch Commodities, becauſe they were not taken within the preciſe Bounds marked out by our Acts of Parliament? A Ship of War, my Lords, has a Right to viſit the Trading Ships of another Nation in any Latitude, becauſe they are to take care that no Ship is concerned in any Trade, or in any Voyage, that may be detrimental to the Subjects, or the Revenue of the Crown they ſerve; nay, my Lords, a Ship of War, when ſhe has a Proof, or even a ſtrong Preſumption, that a Trading Veſſel of another Nation has any of our prohibited Commodities on Board, has a Right not only to Viſit, but to Search ſuch Ships. My

Lords,

Lords, the *Spaniards* in their Settlements in *America*, have the very ſame Regulation with us in this Reſpect. They have certain Commodities there which may be called Staple, and which, they ſay, are ſpecifically different from the ſame Commodities in any other Part of the World. Of this Kind is their Cocoa-nut, their Logwood, and their Silver Coin or Plate. It is true, that we pretend we have Logwood and Cocoa-nuts growing in our Plantations. But then the *Spaniards* tell us, and I believe very juſtly too, that there is as great a Difference betwixt our Cocoa-nuts and theirs, and our Logwood and theirs, as there is betwixt our Wool and that of any other Nation. Therefore, ſay they, why will you deprive us of a Right which you yourſelves exerciſe in as extenſive a manner as we pretend to? We (continue they) have ſtill a better Right to viſit Ships on the *American* Seas, than you have of viſiting on the *European*. We pretend only to viſit on the Seas that waſh our own Coaſts; and the Intention of that Viſit is only to ſecure to ourſelves thoſe Advantages that are ſtipulated by Treaty, which you yourſelves do not diſpute. I know, my Lords, that the *Spaniards* have abuſed and extended this Claim to unwarrantable Exceſſes; and, my Lords, if I had reaſon to think that theſe Abuſes are countenanced by the Court of *Spain*, I ſhould very willingly give my Voice for chaſtiſing them in an exemplary Manner. But, my Lords, if we conſider that the *Guarda Coſta*'s, by which theſe Abuſes were committed, are not properly Ships belonging to to the Crown of *Spain*; if we conſider, that it is impoſſible for any Crown to prevent Abuſes of that kind, and that they in effect diſavow them, I think, they ought to have no Influence upon our preſent Deliberation. Ann. 12 Geo. II. 1738-9.

'Upon the whole, my Lords, it is evident that there are certain Points of Commerce, and certain Rights, which we cannot deny to *Spain*, without acting with the greateſt Inconſiſtency and Injuſtice on our Part. We cannot deny, that they have a Right to employ their utmoſt Endeavours in preventing a clandeſtine Trade betwixt their own Colonies and any other Nation in the World but themſelves: That they have a Right to ſeize upon and confiſcate all Ships that are found carrying on ſuch a Trade, and are ſole judges of all Caſes betwixt the Captors and the Owners of ſuch a Ship.

'We, on the other hand, my Lords, with great Juſtice, inſiſt on a free Navigation betwixt one part of his Majeſty's Dominions and another. We inſiſt that this Freedom of Navigation be not interrupted by our Ships being ſtopp'd or ſearch'd on the open Seas; and this is a Right which the *Spaniards* have never yet expreſsly denied us. So that, my

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Lords, when we conſider the Matter coolly and without Prejudice, there is no Difference betwixt us about the *general Rights*, which each claims, but about the *particular Manner in which theſe Rights are exerciſed*. We tell the *Spaniards*, that though they have a Right to prevent all clandeſtine Trade in their own Settlements, yet, that they ought not to exerciſe that Right in ſuch a Manner as to interrupt the Freedom of our Navigation. The *Spaniards*, on their part, tell us, that we are not to abuſe that Freedom of Navigation, which they acknowledge we have a Right to, by exerciſing it in ſuch a Manner as to give our Merchants an Opportunity of Trading with their Colonies. This, my Lords, is the plain State of the Points in Difference betwixt us and *Spain*. Neither diſputes the Rights of the other, but each diſputes the exerciſe of theſe Rights. Therefore, my Lords, all that remains to be done by the Negotiators on both Sides, is, to reconcile the *Exerciſe* of our Rights of Navigation, to the *Enjoyment* of their Rights, to prevent a clandeſtine Trade with their Settlements. This, my Lords, is what cannot be done by canvaſſing the Words of any Treaty, becauſe no Treaties have provided againſt all Abuſes of this kind. It can therefore be done only in the Method propoſed by this very Convention, by appointing Plenipotentiaries on each Side, who are to meet and to ſettle the proper Methods of *regulating*, or, if you will, of removing, all the Grievances ſubſiſting on either Side.

'This, my Lords, cannot be done, but by each Side receding a little from the Rigour of its Demands, and by our conſidering the Intention as well as the Words of Treaties. There is no Treaty, my Lords, can be deviſed by the Wit of Man, ſo as to comprehend and provide for all the Caſes that may ariſe from the Abuſes of it, if either of the Parties concerned ſhould refuſe to ſubmit to a reaſonable Explanation of its true Intention and Meaning, and juſtify their Abuſes of it from their not being literally provided againſt. The Treaty of the 23d of King *Charles* II. whereon we found our Rights to a free Exerciſe of Navigation, provides, that we may ſail from one Part of his Majeſty's Dominions to another; but it does not provide that, in caſe our Ships ſhall be found hovering within Gun-ſhot of the *Spaniſh* Coaſts, the *Spaniards* muſt not ſtop and ſearch theſe Ships, though they have the cleareſt and moſt undeniable Proofs of their carrying on an illicit Trade. But, my Lords, becauſe no ſuch Proviſion is made, would it be reaſonable in us to inſiſt upon it, that it is a breach of that Treaty, for them to ſeize any Ship in ſuch Circumſtances? On the other hand, my Lords, ſhould the *Spaniards*, becauſe a Prohibition of Trade with their Colonies is ſtipulated by that Treaty, under the colour of pre-

preventing an illicit Trade, interrupt our Freedom of Navigation on the open Seas, I think we ſhould be warranted by all Laws Divine and Human, to bring them to a ſevere Account. But, my Lords, if both Sides, without juſtifying theſe Exceſſes, ſhall have Recourſe to the original Meaning of the Treaty, and take the Pains to examine into the proper Methods of preventing them, as is propoſed by this Convention, I am perſwaded that each Party will have reaſon to be ſatisfied. Ann. 12 Geo. II. 1738-9.

'The learned and noble Lord, who ſpoke laſt, took great pains to prove that the ſecond Article of this Convention is inconſiſtent with the Reſolutions your Lordſhips came to, the laſt Seſſion, on this Head. But, my Lords, if I underſtood your Lordſhips Intentions in coming to theſe Reſolutions, you did not intend them as Inſtructions to his Majeſty's Miniſters to juſtify all the Abuſes that may be introduced into that Commerce. You found that a free Navigation in theſe Seas was the undoubted Right of the Subjects of *Great Britain*; but you did not declare that, if the Subjects of *Great Britain*, in conſequence of this Right, ſhould carry on, nay, force a Trade with the *Spaniſh* Settlements, the Treaties betwixt the two Crowns authorized ſuch a Trade, and that our Miniſter ſhould immediately declare War, if the *Spaniards* refuſed to acknowledge ſuch a Trade to be lawful. Unleſs your Lordſhips did this, the Convention and your Lordſhips Reſolutions are exactly correſpondent to one another, ſince the Treaties upon which your Reſolutions were formed, are therein acknowledged, and laid down as the Ground-Work upon which our Plenipotentiaries are to proceed.

'My Lords, I ſhould not have ventured upon theſe unpopular, but certain Truths, did I not know that I ſpeak in an Aſſembly that has been always eminent for a ſtrict Regard to Juſtice, whomſoever it may affect. What I have ſaid, my Lords, I am ſure, if rightly conſidered, can never injure any of the Rights of this Nation, far leſs can it juſtify any of the unwarrantable Claims or Practices of the *Spaniards*. Let our Rights of Navigation remain inviolate, let the Commerce of this Kingdom extend, and her Intereſts proſper; but, my Lords, do not let us endeavour to advance theſe Intereſts by means that Juſtice cannot warrant, and proſtitute the Faith of this Nation to gratify a miſtaken Notion of her Honour. We never can vindicate her Honour ſo effectually, as by maintaining the Faith of Treaties, by inſiſting upon nothing that is not ſtrictly warranted by them, and by our Readineſs to ſubmit every doubtful Point to a fair and an amicable Diſcuſſion. It is no Sign of true Courage, my Lords, for us to tell any People that we know

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we are in the Right, and if they won't yield to us, they muſt fight us. If we conſult Hiſtory, my Lords, we ſhall find that Succeſs very ſeldom attends any People, who ſet themſelves up for the Bullies of Mankind. The Reaſon is plain: All Nations are againſt ſuch a People, and if the fear of their Power ſhould hinder them a while from acting openly againſt them, they never fail ſecretly of taking all Advantages to humble them. The *Romans* themſelves, my Lords, though their Power was very great, yet, even when they were in the height of their Glory, never refuſed to hearken to Reaſon; and we find them often ſubmitting to treat, where, had they entered into War, they had been ſure to conquer. If this Maxim, my Lords, was a good one amongſt a People who maintained themſelves in their Conqueſts by Arms, much more ought it to be cheriſhed by us, who ſubſiſt by Trade. Trade, my Lords, may be ruined even by a ſucceſsful War, and recovered by an indifferent Peace. I would not be underſtood, my Lords, that we are to give up any of our juſt Rights, or that we are to ſue to the *Spaniards* for Peace: No, my Lords, this very Convention is ſufficient Proof, that we treat with them on an equal, nay, a ſuperior Footing; and if a definitive Treaty ſhall be concluded in Conſequence of this preliminary one, we may juſtly ſay, that we have given Peace, and not received it. As a Proof of this, my Lords, let us conſider the Behaviour of the *Spaniards* ſome time ago, compared with what it is at preſent: And whoever does this, my Lords, will find that they have yielded up many Points, and thoſe material ones, and we have not given up one.

'This, my Lords, has not been attempted to be denied by the noble Lord himſelf, who ſpoke laſt; and I believe every conſidering Man of this Nation would have blamed the Miniſtry, had they plunged the Nation into a War without any Neceſſity. But, my Lords, it has been the Fate of all Miniſters, that ever ſerved this Nation, that, let their Meaſures be ever ſo juſt, and their Zeal ever ſo diſintereſted, a Party has been always found amongſt ourſelves, to accuſe them of Wickedneſs or Weakneſs. They, who are reſolved to find Fault, right or wrong, will never want Pretences. I, my Lords, have lived long enough to ſee Meaſures quite oppoſite to one another approved of by the ſame Party. I have heard the Miniſtry accuſed of Raſhneſs by thoſe in the Oppoſition for entering into a War with *Spain*. I heard them now accuſed of Puſillanimity for endeavouring to preſerve a Peace with her, and I may, perhaps, live long enough yet to ſee this Convention as univerſally applauded, as it is now induſtriouſly decry'd. They in the Oppoſition, my Lords, have many Advantages,

Advantages, without Doors, over thoſe in the Miniſtry. They have the Happineſs of being looked upon by the People as Advocates for their Rights. This gives great Weight to all they ſay or print. They likewiſe never fail to cover all their Deſigns with a Word that is dear to every Free-born People, *Liberty*. This, my Lords, gives them a fine Field for Declamation; and there is nothing ſo abſurd, or ſo ridiculous, that will not beget a popular Prejudice in its Favour, if they have Art enough to colour it with that ſpecious Appearance. For this Reaſon, my Lords, the Cry without Doors has very little Influence with me, any farther than to give me a ſenſible Pleaſure, in reflecting that all our Liberties are ſafe, ſince even the Abuſe of them paſſes unpuniſhed. My Lords, there is nothing can be a greater Proof, that the Dangers to which our Liberties are ſaid to be expoſed, are groundleſs, than the very Freedom with which People ſuggeſt that we are in any ſuch Danger. If Liberty were in danger, my Lords, no Man durſt be ſo hardy as to tell the World that it is ſo; and if this Convention were ſo diſgraceful to this Nation, as ſome pretend, our Miniſtry would have made a farther Stretch of their Power; they would have rendered it unſafe for any Party to have cenſured their Conduct with ſo much Freedom. Former Miniſters, my Lords, have acted in this manner; even good Miniſters have proceeded to Severities under half the Provocation the preſent Adminiſtration has met with. But, my Lords, we have nothing of that kind to fear now; his Majeſty ſubmits the Conduct of his Miniſters to your Examination, their Meaſures muſt ſtand or fall, as you approve or cenſure.

'I would not have ſaid ſo much, my Lords, upon a Subject that has no immediate Relation to this Queſtion, had not the noble Lord, who ſpoke laſt, ſeem'd to think that our agreeing to this Addreſs, an Addreſs of Duty, my Lords, to his Majeſty, would give a fatal Blow to the Liberty of this Nation, and render it unneceſſary for any Lord, hereafter, to attend the Duties of this Houſe. I ſhall, therefore, trouble your Lordſhips no farther, than to add a few Obſervations on what fell from the noble Lord, on the other Articles of this Convention.

'His Lordſhip thought it extremely unreaſonable, that this Convention did not provide an adequate Reparation for all that our Sailors have ſuffered in their Perſons from the *Spaniards*. I ſhould have been extremely glad, my Lords, if ſuch a Reparation could have been obtained; and I believe this Houſe would be obliged to his Lordſhip, if he would take Pains to point out in what manner ſuch a Satisfaction can be effected. It muſt firſt appear, that the Parties who

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ſuffered, applied to the Court of *Spain* for Relief; that they proſecuted the Authors of their Suffering, and prov'd the Facts they alledged, and that the Government of *Spain* had approv'd of their Conduct, and juſtified their Barbarities; or it muſt appear, that theſe Courts were not open to their Relief, and that they were neceſſitated to apply to the Government here. My Lords, I never heard of any Inſtance of that kind; and, though there had been any ſuch Inſtance, I doubt the *Spaniards* are not without Complaints on their Part too, of the Injuſtice of our Governors. Conſider, my Lords, how long it is ago ſince our People in *Jamaica* uſed to go and force a Trade with the *Spaniſh* Settlements; how many Acts of Piracy were committed by our Subjects againſt the *Spaniards*: Nay, my Lords, theſe Abuſes proceeded ſo far, that whole Fleets of Pirates, for I can call them no better, avowedly invaded the Property of *Spain* in theſe Seas; they fiſh'd for Wrecks, to which no Subject of this Nation could have any Claim; and, notwithſtanding expreſs Prohibitions from our Court, committed every act of Hoſtility. My Lords, it would have been unjuſt in the Court of *Spain*, to have declared War againſt us for theſe Practices, or to have demanded an adequate Satisfaction from our Crown. No Miniſtry can undertake to deliver up the Perſons of ſuch Offenders, becauſe they take Care to keep out of the Way; and it is as difficult to give an adequate Satisfaction, for it is almoſt impoſſible to prove the Damages, becauſe, in ſuch Caſes, one Party is always ſure to repreſent the Loſſes greater, and the others leſs, than they really are. This, my Lords, is exactly the Caſe betwixt *Spain* and us. We complain very juſtly of our Loſſes, and they tell us that they will give us full Satisfaction for thoſe Loſſes that we make appear; but that it is unreaſonable to inſiſt on full Reparation for all the Damages that our Subjects have ſuſtained by theirs; and that too, without any other Proof than the bare Evidence of the Sufferers themſelves This, my Lords, is all that we can in juſtice exact; and, I believe, is more than ever was granted before in any ſuch Caſe. Beſides, my Lords, if we conſider the Thing impartially, we ſhall find that we have no Reaſon to complain; for, as the noble Lord who ſpoke firſt in this Debate, obſerv'd, their Demands were much greater than the Sum ſtipulated for their Satisfaction; and we are not obliged, by this Convention, to pay them the fourth Part. As to the Reaſons advanced by the noble Lord, againſt our making them any Satisfaction at all for the Ships taken in the *Mediterranean*, I think they are ſuch as our Commiſſaries could not properly judge of, becauſe they were to act by Treaties and poſitive Stipulations,

and

and to have no Regard to particular Incidents. Now, my Lords, as we are obliged by intermediate Treaty, to give them Satisfaction for these Ships, if they were not actually delivered up, and, as it is evident they never were, our Minister there had nothing to do but to consider how to make the best Bargain he could. But, says the noble Lord, it was owing to the *Spaniards* themselves, that the Ships were not actually delivered to their Commissaries. My Lords, I believe, if the Ships had been worth the Expence of carrying to *Spain*, they would not have refused them. But, my Lords, the Truth of the Matter is, that they were in so bad a Condition, they were so miserably battered, and had been so ill taken care of, when in our Possession, that they were unfit for all Service, and therefore carried out of the Harbour, and sunk in the Sea. My Lords, it is very possible the *Spaniards* thought that we had industriously put them in such a Condition, that they might be disabled from all future Service. Whether this was the Case or not, is of no Importance in the present Question; I shall only take the liberty to say, that 60,000 *l.* is a cheap Price for the Remains of all the naval Power of *Spain*. If the Ships had been in any Condition of being refitted, they might have been soon of greater Detriment to this Nation, than all that Sum. I don't know what the present naval Power of *Spain* is, but be it what it will, it has been all raised since the Action in the *Mediterranean*, for in that Action it was effectually ruin'd.

'As to the other Articles of the Convention, my Lords, which the noble Lord has objected to, I will be very free to own to your Lordships, that I have not examin'd them with the same Attention as his Lordship has done; but I think his Lordship's principal Objection was, to our suffering the Case of the Ship's sailing from *Antigua*, to be submitted to the Determination of the Plenipotentiaries. In answer to this, my Lords, I can only say, that if the Case of this Ship be as unexceptionable as his Lordship seems to think it is, the Provision made by the Convention, is sufficient to indemnify the Owners. But, my Lords, it is very hard for us to pronounce, at this distance, what particular Circumstances might have given rise to this Stipulation. For though the *Spaniards* had most certainly no manner of Right to seize any *British* Ship in the Latitude where that Ship was seized, yet, my Lords, if, after the committing this unwarrantable Act, they had full Proofs from what appeared by the Master's Papers, and the Ship's Cargo, that this Ship since she left *England*, had been concerned in an illicit Trade, as nobody here can venture to say she had not, will your Lordships be of Opinion that there did not arise from this, at least, some ground for

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a future Diſcuſſion? My Lords, I don't aſſert that this is the Fact but it poſſibly may, and I think we ought not to form any ſudden Judgment of it, till we know the Truth.

'But whatever may be in this, it is certain that every wiſe Miniſtry, my Lords, will give up a few Points of leſs Importance in order to ſecure the general Intereſts; and in a Negotiation of this Nature, many ſuch Points occur: But I believe the Miniſtry has managed with as much Caution, and with as great Tenderneſs to the Intereſts of our Merchants, as any Miniſtry ever did.

'To conclude, my Lords, I think this Addreſs is but a bare Acknowledgment of our Duty and Gratitude to his Majeſty; if we agree to the Motion, it will give a Weight to our future Negotiations, and it never can be attended with any bad Conſequences, becauſe the future Security of this Nation, the only Thing that now remains to be ſettled, and the principal Thing that the Nation has all along deſired, is expreſly provided for in the Words of the Addreſs propoſed: So that, my Lords, it is really a Direction, a Caution to the Miniſters, that none of our juſt Rights ſhall be given up by any ſubſequent Treaty. But, my Lords, if we ſhould not agree to it, what have we to expect but that the Enemies of the Nation will unite upon our Diviſions? They will take Courage, my Lords, from our Animoſities: Therefore, my Lords, I am heartily for our agreeing to the Motion.'

The Duke of *Argyle*

Duke of *Argyle*.

'My Lords, as I neither ſpeak from Pamphlets nor Papers, I cannot preciſely tell your Lordſhips how long I ſhall trouble you on this Occaſion. It is an Affair of as great Importance, I will venture to ſay, as ever came before this Houſe. I have, my Lords, employed a great deal of Time in endeavouring to form a right Judgment of it. I have examined it without Prejudice, I have endeavoured to find ſomething in it that may be juſtified, I have viewed it, my Lords, in all the beſt Lights it was capable of; but ſtill, my Lords the more I conſider, the more I view it, the more diſgraceful, the more deformed, does this Convention appear

'I have known, my Lords, I have read of Meaſures of this kind that were, indeed, generally diſliked by the People, and were diſadvantageous to the Nation; but ſtill, my Lords, the Miniſters who carried on and concluded ſuch Meaſures, had ſomething to ſay in their Juſtification. The Weakneſs of the Nation, the Conveniency of Trade, the Strength of our Neighbours, or ſome Conſideration of that kind

kind, was always pleaded as an Excuſe. And ſometimes, Ann. 12 Geo. II. 1738-9.
though a Treaty was in the main diſagreeable, or diſhonourable to the Nation, yet there were certain particular Clauſes, ſome Advantages ſtipulated, which, if they did not balance, ſerved at leaſt to excuſe the reſt. But, my Lords, this Convention is not only diſagreeable to every body without Doors, but it does not contain one Article that can be wreſted to have ſo much as a favourable Aſpect for this Nation. To what, my Lords, can this be owing? Is it owing to the Weakneſs of the Nation? Not at all; this Nation is not weak; ſhe has Strength ſufficient to cruſh that Power that cruſhes her. If ſhe is poor, my Lords, the Government feels none of it; for our Miniſters are as largely ſupplied with Treaſure as thoſe Miniſters were, under whom this Nation made the Power that now inſults us, to tremble. Our Troops, my Lords, are more numerous, better cloathed than thoſe Troops were, who once conquer'd this inſolent Neighbour, and filled her Throne with a Monarch of our own making. I ſee many Lords here, who, I am ſure, remember theſe glorious Times; and if, my Lords, at that Time any one had ventured to foretel that this Nation would ſoon be reduced to the Neceſſity of negotiating, for the Space of eighteen or twenty Years, to obtain ſuch a Treaty as this is, was there a Man in the whole Nation that would have believed him?

'Have our Miniſtry, my Lords, aught to plead in favour of this Meaſure, becauſe it is for the Convenience of Trade? My Lords, every body, who underſtands what Trade is, knows, that if this Convention is approved of by Parliament, our Trade muſt be irretrievably ruined.

'Can it be pleaded, my Lords, that our Enemies are ſo ſtrong that we ought, in Policy, to yield a little to their Humours? No, our Enemies are weak, they are ſtrong only in our Fears. We, my Lords, are Maſters of that Element whereon the Cauſe muſt be decided; and let all our Enemies, either profeſſed or ſecret, nay, let all the neutral Powers in *Europe* unite their naval Force, we have a Fleet now at Sea that is able to beat them all. But, my Lords, do we behave as if we had any ſuch Superiority? Have we ſo much as aſſerted the Honour of the *Britiſh* Flag? Have we not tamely given it up, given it up without the leaſt Reaſon, ſo far as appears to the World? What the Reaſons of our Miniſters may be, my Lords, for this Puſillanimity, I am entirely ignorant; and as I am ignorant, I am innocent: For, my Lords, though I am a Privy Counſellor, I am as unacquainted with the Secrets of the Government as any private Gentleman who hears me.

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'I remember, my Lords, a very good Saying of a noble Lord, who once ſat in this Houſe, it was the late Lord *Peterborough*: When he was aſked by a Friend, one Day, his opinion of a certain Meaſure; ſays my Lord, in ſome Surprize, 'This is the firſt Time I ever heard of it. Im-'poſſible (ſays the other why you are a Privy Counſellor.' 'So am I (replies his Lordſhip) and there is a Cabinet Coun-'ſellor coming up to us juſt now; if you aſk the ſame Que-'ſtion of him he'll perhaps hold his Peace, and then you'll 'think he is in the Secret; but if he opens once his Mouth 'about it, you'll find he knows as little of it as I do'. My Lords, it is not being in Privy Council, or in Cabinet Council, one muſt be in the Miniſter's Council to know the true Motives of our late Proceedings. For my own part, my Lords, I can only gueſs at them, but I have diſapproved of them theſe eighteen Years; I have diſapproved of them in Public, in Private, and in all Companies. Therefore my Lords, what I ſpeak upon this occaſion, I ſpeak it as a Citizen of the World, and not as a Privy Counſellor. I ſpeak the Language of an honeſt and unprejudiced Heart, and what I can anſwer for to my King, my Country, and my God.

'So far, my Lords, as I can judge from the Tenour of our late Behaviour, our Dread of *France* has been the Spring of all our weak and ruinous Meaſures. To this Dread, my Lords, we have ſacrificed the moſt diſtinguiſhing Honours of this Nation. This Dread of *France*, my Lords has chang'd every Maxim of right Government among us. There is no Meaſure for the Advantage of this Nation that has been ſet on foot for theſe many Years, to which ſhe has not given a Negative; there is no Meaſure ſo much to our detriment, into which ſhe has not led us. Your Lordſhips may remember, for it happen'd but a few Years ago, that a *French* Ship came into one of our Harbours with all her Sails up, and her Pendants flying; and an *Engliſh* Officer, who was but a Lieutenant of one of our Men of War, fir'd at her to make her ſalute his Majeſty's Ship. Your Lordſhips, I am ſure, have not forgot what was the Conſequence: The Lieutenant, for barely doing his Duty, and which if he had not done, he muſt have been broke, was diſcharged the Service. It is true, my Lords, he was afterwards preferred, but not before we, in order to gratify that haughty Court had ſubmitted to the Infamy of breaking him.

'Here, my Lords, was an Inſtance wherein *Great-Britain* gave up the Point of which ſhe always has been, and always ought to be the moſt jealous; I mean the Honour of her *Flag*: And not only ſo, my Lords, but puniſhed a brave Officer for doing his Duty in our own Harbour. He, my

Lords,

Lords had no diſcretionary Power, he acted in abſence of his Captain, he acted by Sea-Rules; and yet theſe Rules were broken through in order to pacify that Court. Why, my Lords, ſhould our Miniſters ſhew ſo much Complaiſance to other Nations, and bear ſo little Affection to their own? Ann. 12 Geo. II. 1738-9.

'But, my Lords, it is not Punctilio and Form only, that we give up to *France*; I am afraid we ſacrifice more ſubſtantial Points to pleaſe her. I am afraid my Lords, the Convention is a *French* Meaſure. For I can never be perſuaded that our Fear of aught, that can poſſibly happen to us from *Spain*, cou'd induce us to agree to this thing, you call a Convention. It is the intereſt of *France*, that our Navigation and Commerce ſhould be ruined; we are the only People in the World, whom they have reaſon to be apprehenſive of in *America*; and every Advantage that *Spain* gains in point of Commerce, is gain'd for her. Therefore, my Lords, we are not at all to be ſurprized, if ſhe takes great Pains to bring about a Meaſure of this Kind. But, my Lords, they look'd upon their Work as but half done, when this Meaſure was concluded; it muſt be ratified too, in order to put the Parliament under greater Difficulties in cenſuring it. Accordingly, becauſe it ſeems the ſlowneſs of the *Spaniards* cou'd not be brought to ſign it time enough to get it ratified before the meeting of Parliament, the Seſſion was put off for fourteen Days. This brings his Majeſty's Name and Authority into the Queſtion; for they thought that a great many might be diſſatisfied with a bad Treaty concluded by the Miniſter, who would put up with it, if confirmed by the King. But, my Lords, the Treaty was of the Miniſter's making, and if Miniſters make bad Treaties, they ſhould anſwer for them. Our Law has moſt excellently eſtabliſhed it as a Maxim, That the King can do no wrong. The reaſon of this, my Lords, is plain, becauſe the Conſtitution has provided a proper Council, who ſhall adviſe with the King, as to the executive part of Government: And it is, my Lords, always to be ſuppoſed that the Perſons, who compoſe that Council, are well ſkilled in the Laws, the Conſtitution, and the Intereſts of their Country. Therefore, my Lords, if any Wrong is done in the Government, it is preſumed to be done by thoſe who adviſe the King. It is true, the nature of our Conſtitution requires, that public Acts ſhould be iſſued out in his Majeſty's Name; but, for all that, my Lords, he is not the Author of them. Therefore the Publication of this Treaty in his Name ought not to indemnify the Authors, or to make us ſwallow what we can never digeſt.

'The

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The Approbation of this Treaty is brought in by way of an Addreſs of Thanks to the Crown, and is, it ſeems, no more than a Compliment to his Majeſty. A Compliment for what, my Lords? For making this Convention? His Majeſty did not make it; the Miniſtry made it. This Addreſs, therefore, will tell the World that we return Thanks to the Miniſter for this Convention; which gives up the Security of our Trade, and puts us in the Power of our natural and hereditary Enemies.—Let who will approve of ſuch a Meaſure, I never will; I'll die firſt.

'The noble Lords, who have ſpoken for this Addreſs, appear to have ſtudied the Point. It is no eaſy matter for one, who ſpeaks occaſionally, to anſwer them. My Lords, I don't trouble myſelf about little Niceties and Diſtinctions; about a Right and the Exerciſe of a Right. For what End do we enjoy a Right, if we cannot exerciſe it? Do we pretend to hinder the *Spaniards* from ſearching our Ships, when found in their Ports or Harbours, which is the utmoſt they can claim by Treaty? My Lords, we don't. Do the *Spaniards* ſuffer us to exerciſe that our natural and undoubted Right of ſailing unmoleſted on the open Seas? No my Lords they don't: So that the Queſtion is not about a Right, or the manner in which a Right is exerciſed, but betwixt an unreaſonable Claim, and an undoubted Privilege, betwixt an oppreſſive Uſurpation, and a lawful Title. There is, indeed, another part of the Doctrine preached by the Reverend Prelate, which admits of a very wide Difference, though his Lordſhip has been pleaſed entirely to ſuppreſs it; and that is, the Difference betwixt a Viſit and a Search. Viſiting a Ship, my Lords, is, when a Ship of any Force accoſts a Trading Ship of another Nation, and ſends five or ſix Perſons at moſt in a Long-Boat, in order to viſit her; that is to ſay, to enquire whence ſhe is come, whether bound, what ſhe has on board, and how long ſhe has been at Sea. To all theſe the Maſter muſt give explicite Anſwers. And if the Captain of the viſiting Ship ſtill doubts, he may call for his Ship's Papers, and Bills of Lading, but has no Right to inſiſt any further. If he does, my Lords, he commits an Act of Piracy. A Search on the other hand, is a rummaging the Cargo with an Intention to confiſcate; and this, my Lords, is what no Treaty betwixt *Spain* and us, ſubjects our Ships to. This, my Lords, is what no Nation in *Europe* will ſuffer from one another, and we ought, leaſt of all, eſpecially from the *Spaniards*. It is ſhameful that we have ſuffered it ſo long. If we ſuffer our Seamen to be inſulted or interrupted, we give up the Honour of the Nation, we give up all that formerly gave us Succeſs, Conqueſt, and Glory.

'People,

'People, my Lords, talk of *Cromwell*, that he was an Uſurper: I don't deny that; but he ſtill had many valuable Qualities, and wanted nothing but a lawful Title to have made him one of the greateſt Men that ever governed this Nation. He my Lords, had one Maxim from which he never deviated; and that was, never to ſuffer even the Appearance of an Inſult upon this Nation to paſs unobſerved. Notwithſtanding, my Lords, his diſputed Title to the Government, a formidable Oppoſition at home, and powerful Alliances againſt him abroad, he kept up the Dignity of the Sovereignty, and carried the Reputation of the *Britiſh* Flag to as great a Height as ever it has been carried. He, my Lords, had to do with three powerful States, *France*, *Holland*, and *Spain*; each of them more powerful than they are now: But my Lords, he never entered into any inglorious Treaty, he never ſubmitted to any ignominious Terms.

'He told them what he was reſolved to have, and what he would do, if he had it not. This poſitive way of proceeding, my Lords, effected all the Nation could deſire, for we don't find in Hiſtory, that any Power was ſo bold as to ſlight his Menaces; they knew him too well to take him for a Bully; he never fitted out any Armaments, either by Sea or Land, with which he did not ſtrike ſome deciſive Stroke. I will tell you my Lords, one Inſtance: When the *Spaniards* fitted out a Fleet to conquer an Iſle in the *Mediterranean*, for want of Proviſions of their own, they ſeized upon Corn that belonged to a *Britiſh* Subject, to the value of 30,000 l. On our Conſul's remonſtrating againſt ſuch a Procedure, they clapped him in Priſon. What did *Cromwell* do upon this? Did he ſend Plenipotentaries, at a great expence to the Nation, to examine into the nature of the Complaints on both Sides? Did he patch up a Convention for regulating the Grievance? No; he ordered his Reſident at that Court to tell them in plain Terms, that he gave them ſo many Days to conſider, if they would make him Satisfaction (upon the Terms, my Lords, which he himſelf preſcribed) and if they did not in the Time limited, that he would come with his Squadron and demand it, upon their Coaſts, from the Mouth of his Cannon. This blunt Speech had its deſired Effect; the *Spaniards* knew whom they had to deal with; therefore they did not treat, but ſubmit.

'Suppoſing, my Lords, we had acted with the ſame Spirit, don't your Lordſhips think it would have had the ſame Effect? And why did we not act with the ſame Spirit? We are more powerful now, than we were in the Days of *Cromwell*. The *Spaniards* are weaker, and our Provoca-

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tions are much greater now, than they were at that Time. What Inſults, what Barbarities, what Breaches of Faith have not the *Spaniards* committed of late? They have plundered our Merchants, they have deſtroyed our Ships, they have murdered our Sailors; nay, what is more inſufferable, they have chain'd, they have tortured our Countrymen: A Method of Puniſhment this Nation has ever deteſted; a Barbarity, which even our worſt Malefactors are free from, by undergoing a Puniſhment in all Reſpects more deſirable, that is, Death itſelf. My Lords, it will aſtoniſh Poſterity, that we have ſuffered all theſe Indignities, while we have a Fleet able to defy not only *Spain* and *France*, as I ſaid before, but all the Nations in *Europe*.

'It's ſaid, my Lords, that we may want other Forces to carry on this War to Advantage. It is very poſſible, we may; but has the Parliament ever yet refuſed to comply with any Demand of that Kind, when Land-Forces, my Lords, were neceſſary? I dare ſay, the Parliament would allow 100,000 Men, if there was Occaſion for them. But the Misfortune is, my Lords, that the Nation, I am afraid, will not be perſuaded, even though theſe were raiſed, that we are in earneſt: People will think that our Land-Army will continue as unactive as our Fleets have hitherto been; and that our raiſing Forces before we ſhew that we dare to do ourſelves juſtice, will but expoſe the Nation to greater Inconveniencies and enhance its Expences.

'Laſt Year, a ſtrong Squadron was ſent to the *Mediterranean*, under the command of a Gentleman, againſt whom, I am ſure, no-body can have any Exception. I know him to be a brave Officer, and that he has the Intereſt of his Country much at Heart. But, my Lords, of what Uſe are all theſe Qualifications to the Nation, if his Guns are muzzled, if his Hands are bound up by his Inſtructions from the Miniſtry? What Service have the Ships under his Command performed to his Country? What Ends have the vaſt Sums of Money we have expended, ſerved, if not to weaken us while we are Inactive; ſo that we ſhall not be able to furniſh the neceſſaries Expences when we ſhall come to Action? What Plea then, my Lords, can there be for not declaring War? It is to avoid the Profuſion of Money? Money, my Lords, we daily expend to extravagant and uſeleſs Purpoſes. Is it to avoid the Profuſion of Blood? No: Yet you have ſuffered your own Sailors to be daily inſulted and murdered. My Lords, it is time enough for us to ſhew our Tenderneſs to *Spain*, when we have revenged the Wounds given to the Honour of *Great Britain*.

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My Lords, as I did not propoſe, and as I find myſelf incapable, eſpecially on this Occaſion, to ſpeak, in order, to every thing that has been ſuggeſted in this Debate, I ſhall take them juſt as they come into my Mind. The Differences betwixt *Spain* and us are not of ſuch a Nature as to affect only one Set of Men amongſt us. It is not our *Weſt-India* Merchants, my Lords, alone, that muſt ſuffer, ſhould we approve of this Convention. Give me leave to ſay, that there is not a Merchant of whatever Denomination in this Kingdom, there is not a Shop-keeper, there is not a Houſe-keeper, there is not a Tradeſman, nay, there is not a landed Gentleman in the Kingdom, whom it will not affect. Conſider, my Lords, that the Balance of our Trade to almoſt all other Places in the World, except our own Settlements, is againſt us. But a noble Lord has, I think, demonſtrated, that if we approve of this Convention, we leave our Trade and Settlements in the *Weſt-Indies*, entirely to the Mercy of *Spain*. What Reſource can we then have for ſupplying the Nation with thoſe Neceſſaries of Life, which we now import from our own Settlements, and which, if they are ruined, we muſt have from other Nations, in what Manner, and upon what Terms they pleaſe? Therefore my Lords, it is no wonder, if all Ranks, and all Degrees of Men turn their Eyes upon your Lordſhips at this important Juncture. If, I ſay, they look on their All as being at Stake, if they have expreſs'd ſome impatience under the Apprehenſions of its being given up, I do not wonder at it. The Reverend Prelate ſaid, that the Advocates for the Oppoſition, had great Advantages over thoſe for the Miniſtry, by means of certain Sounds and Words. My Lords, I am afraid there is ſomething, in this Caſe, more than bare Sounds and Words. I'm afraid the real Things themſelves are in danger, and that the Liberties and Intereſts of this Nation muſt ſuffer, if your Lordſhips ſhould approve of this Meaſure. My Lords, I have formerly known the People ſpirited up by artful, or hot-headed Men againſt the Government, and I have known them commit very great Exceſſes; but, my Lords, I always obſerved, that theſe Exceſſes were committed by the very Dregs of the People, who neither knew what they were about, nor what they wanted. I obſerve a quite different Spirit at this time. The Spirit of Oppoſition that now prevails, my Lords, is among your cool-headed Men, Men of Weight and Intereſt in their ſeveral Stations, who pay largely towards the Support of the Government, and therefore think it a Hardſhip to ſuffer by any Public Meaſure. My Lords, though I had no manner of Knowledge of the Nature of this Convention, though I were

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quite ignorant of all the Tranſactions that preceded it, yet this very Circumſtance would determine me to ſuſpect if not oppoſe it. When I ſee Men of Figure in their Way, crying out againſt it, when I ſee the greateſt City in the Kingdom petition againſt it, what ſhould make them ſuch zealous Oppoſers, but their being perſuaded that a Peace, on the Foot of this Convention, muſt be more deſtructive to their Intereſts, than a vigorous War? Their Intereſts, my Lords, lead them to deſire Peace, they muſt be conſiderable Sufferers in a War, by their Ships being taken, the Increaſe of the Taxes, and the Stagnation of their Trade: But ſtill, my Lords, we ſee, that they look upon all theſe Evils as more tolerable, than ſuch a Peace as this Convention muſt give them.

'It is certain, my Lords, that the Peace we have lately enjoyed is not very deſirable; we have paid dearly for it; nay, I believe it has coſt the Nation more to make Peace, than it would have done to have made War. But, ſays a noble Lord, the *Spaniards* are very ſlow; give me leave to add, my Lords, they are very obſtinate too. But why are we to pay for their Slowneſs and Obſtinacy? Are we to fit out Fleets, at a vaſt Expence to the Nation, only to quicken them to do, what Equity, what the Law of Nations, and what poſitive Treaties require them to do? But, my Lords, the worſt is, that we have not even obtained that: We have only brought them to negotiate, and to give us a Treaty where not one of theſe Conſiderations has been regarded. This, it ſeems, proceeds from their Obſtinacy; Why then have they not been made to pay for their Obſtinacy? Why ſhould we pay for it? If they had a mind to be obſtinate again, and to refuſe to fulfil even the Terms of this poor Treaty, are we to be again at the Expence of 5 or 600,000*l.* only to bring them into good Humour?

'My Lords, when I firſt heard this Treaty read, I thought it ſet out with a very bad Air: The Preamble begins, *Whereas Differences have ariſen*; it does not ſay, juſtly or unjuſtly. But what Differences, my Lords? That Word always implies a Diſagreement of Opinion, betwixt two Parties, with at leaſt a Shew of Reaſon, and an Appearance of equal Provocation on each Side. But, my Lords, is that the Caſe betwixt us and *Spain*? Has ſhe been able to juſtify her Depredations, either by the Law of Nations, or Tenor of Treaties? No; the noble Lord, and the Reverend Prelate who ſpoke ſo fully in her Vindication, has not, I think, given us an Inſtance of a legal Capture of one Ship, among all the numerous Inſtances complained of, even admitting that they have a Right to ſearch in the manner the Reverend Prelate has pleaded

pleaded for. I muſt therefore confeſs, I was very much ſurprized to hear a noble Lord explain the Preamble to this Treaty, in the manner he did, as a Proof of the Willingneſs of the Court of *Spain* to adjuſt all Differences betwixt us and them, on an equal Footing. Had we taken as many Ships from the *Spaniards*, as they have done from us, I ſhould have had no Objection to this Preamble; but, as it ſtands, it puts the two Nations upon an Equality of Loſſes, though one has been the conſtant Aggreſſor, the other the perpetual Sufferer. Ann. 12 Geo. II. 1738-9.

'The other Particulars of this Convention have been already ſo fully ſpoken to, that I think it unneceſſary for me ty add any Thing more on thoſe Heads; but, my Lords, I cannot help taking notice of what happened juſt before the Ratification of this Convention, when we find the Court of *Spain* preſcribing to us, and our Plenipotentiary obeying a *Spaniſh* Miniſter, as he would have done a *Britiſh* one. The *Spaniards*, it ſeems, could not be brought to any Terms, till the Sitting of Parliament approached ſo near, that they were ſure our Miniſtry would give up every Point of Conſequence, rather than not have a Treaty of ſome kind or other, to lay before Parliament, when it met. My Lords, Delay in ſuch an Affair as this, is equal to a point-blank Refuſal. Yet, we find, by the Letters now upon your Lordſhips Table, that, after a Plan of Accommodation was drawn up by our Miniſters, and every thing looked upon as finiſhed, the *Spaniſh* Miniſter very rightly apprehended, that they who would grant ſo much, would grant more. Upon which, a new Claim is ſtarted, and they refuſe to ratify what they had before agreed to, till Mr. *Keene* had, as Miniſter of *Great Britain*, acknowledged a Debt to be due, which, in that Capacity, he had no Power to acknowledge; and, in the Capacity of Agent for the *South-Sea* Company, he ought abſolutely to have diſclaimed. My Lords, this Way of proceeding proves plainly, that he has ſcandalouſly betrayed the Intereſt of that Company. He has ſacrificed them to the Injuſtice and Exorbitancy of the Court of *Spain*; and put them upon the hard Dilemma, either of paying a large Sum on no Pretence, or of being the Bone of Contention betwixt the two Nations.

'But, my Lords, that Company has no greater Reaſon to complain of her Agent, than the Nation has of her Miniſters. Compare the Dates of the Conſul of *Cadiz*'s Letters, with the Time of near a Hundred *Engliſhmen* being barbarouſly impriſoned and chained in that City, for no other Reaſon but becauſe they were *Engliſhmen*; and you will find, my Lords, that theſe Dates exactly agree. The Inhumanity

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Ann. 12 Geo. II. 1738-9.

was taken notice of by all the World, except by that Conſul himſelf. He obſerves a profound Silence on this Head, though his Letters wrote at that Time are very full and explicit upon other Points. My Lords, what can we think of this Behaviour? that a *Britiſh* Conſul ſhould, with the greateſt Unconcern imaginable, ſee his Countrymen daily labouring under Confinement, Chains, and Inſults? Does not this imply that the *Spaniſh* Miniſters and ours underſtood one another? Does it not imply ſome under-hand Dealing, ſome ſecret Colluſion, in order to avoid a War?

'I confeſs, my Lords, had I been a Miniſter, I would not have given my Advice to run precipitately into bloody Meaſures; but I would have endeavoured to have taken more prudent Steps, than what I am afraid have been followed. It is true, my Lords, that a War, if it can be avoided with Honour, eſpecially with *Spain*, is not for the Intereſt of this Nation; and that cautious Proceedings are the beſt Means of eſtabliſhing his Majeſty, and his Royal Family, on the Throne of this Kingdom: But, my Lords, though I am for Caution, I am not for Puſillanimity. That may bring the Nation into Contempt, and this Nation never can be brought into Contempt without weakning the Royal Authority. I know, that the Fear of the Pretender has a mighty Influence with a great many, who talk upon this Subject. But, my Lords, I am of Opinion, that our going on in the ſame Meaſures we have done for ſome time paſt, will be playing the Pretender's Game for him. I am ſure his Majeſty has the Hearts of the People, and can command their Hands to: But a Perſeverance in theſe Meaſures will divide us among ourſelves; and, my Lords, if we are divided, we muſt be weaker, and give the Enemies of the preſent happy Eſtabliſhment a better Chance of ſucceeding. For my own Part, my Lords, I believe no-body doubts of my Zeal for the Continuance of the Crown upon his Majeſty's Head, and his Family; I have formerly ſtrenuouſly aſſerted the Rights of this Family, and as I have done it on more than one Occaſion, it is the more unqueſtionable. But, my Lords, it is not my Duty alone that begets this Attachment; my Inclination is as ſtrong as my Duty. The Knowledge I have of his Majeſty's Perſonal Virtues, makes it the Happineſs and Glory of every Subject to ſerve him. I know, that he is as ſtrongly attached to the Intereſts of his Subjects, as any Prince who ever ſat upon the Throne. But, my Lords, the beſt, the wiſeſt, and moſt diſcerning Princes, muſt ſee many of their moſt important Affairs in the Light their Miniſters repreſent them: If the Miniſters miſrepreſent them, they, my Lords, and not the Prince, are to blame. Had

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not his preſent Majeſty been miſled in this Particular, ſure I am, that he would have vigorouſly aſſerted the Rights and Privileges of his People, as the greateſt of his Predeceſſors ever did. He, my Lords, would have imitated the Example of that great Prince, King *Edward* III. to whom he may, in many other reſpects, be ſo juſtly compared. And now I have mentioned that great Prince, I beg leave to ſuggeſt to your Lordſhips, in what manner he would have behaved. The Difficulties he had to ſtruggle with, from a weak Adminiſtration in his Minority, were very great. The Kingdom, my Lords, was then governed by a Faction compoſed of a few Favourites about the Perſon of the Queen-Mother; who choſe to buy a ſcandalous Peace of the *North-Britons*, a People, my Lords, that never abounded overmuch in Riches, and who were very glad to finger a little of the ready Money of this Nation. What did the King do, my Lords? Young as he was, he had the Minion, the Miniſter, who adviſed that ſcandalous Peace, ſeized; he had him tried, and hanged. Let us conſult Hiſtory further, my Lords; let us conſider the Behaviour of King *Edward* IV. in an Inſtance of a ſimilar Nature. Did he bear with the Injuries *France* offered to the Nation? No; he had Recourſe to Arms; and as his Cauſe was juſt, his Soldiers were victorious. The Reign of Queen *Elizabeth*, the moſt glorious perhaps in all the *Britiſh* Annals, was always ſucceſsful, becauſe it was conducted by a wiſe and prudent Adminiſtration. She neither governed by Affection, nor by a Miniſter; for though *Burleigh* was ſtiled prime Miniſter, yet he was only ſo in Name. He had, indeed, a greater Share of Buſineſs, and greater Fatigue, than any of the reſt; but the Affairs of the Government were never left to him alone. Commiſſaries were always appointed, upon every urgent Criſis of Affairs; and the Adminiſtration was compoſed of many, who, though they bore the utmoſt Animoſity againſt him in their private Capacity, yet all united in the Common Cauſe; they laid aſide all other Conſiderations, when the Intereſts of their Miſtreſs were concerned; when the Honour of the Nation was at Stake. They ſtrenuouſly entered into warlike Meaſures, rather than ſuffer any Inſults; and as their Cauſe was founded on Equity, Succeſs attended their Arms.

Ann. 12 Geo. III. 1738-9.

'To conclude, I entirely concur with the noble Lord, who firſt ſpoke againſt the Addreſs. If it be preſented, the Event will be dangerous, the Conſequence fatal. Many other Inſtances I might produce from Hiſtory to juſtify my Aſſertions; but as I have already taken up too much of your Time,

Ann. 12 Geo. II. 1738-9.

Time, I will only ſay— theſe Setiments proceed from an honeſt and impartial Heart.'

The Lord Chancellor.

Lord Chancellor.

'My Lords, The Addreſs now propoſed to you, is ſo agreeable to the Reſolutions you came to laſt Seſſion of Parliament, upon the Depredations that had been committed by *Spain*; and it is ſo natural a Conſequence of the Addreſs you preſented to his Majeſty upon that Occaſion, and of the Meaſures his Majeſty has ſince taken in purſuance of that Addreſs, that when I firſt heard it propoſed, I did not expect it would have met with the leaſt Oppoſition. By the Reſolutions you came to laſt Seſſion of Parliament, you aſſerted the Right which the People of this Nation have to a free Navigation in the open Seas of *America*; and you declared, that many unjuſt Seizures had been made, and great Depredations committed, by the *Spaniards*, to the great Loſs and Damage of the Subjects of *Great Britain* trading to *America*, and in direct Violation of the Treaties ſubſiſting between the two Crowns. This was the Sum of your Reſolutions, and in conſequence of theſe Reſolutions, you addreſſed his Majeſty to uſe his Endeavours with his Catholic Majeſty, to obtain effectual Relief for his injured Subjects, and Security for our Navigation and Commerce in Time to come; and at the ſame time you aſſured his Majeſty, that in caſe his royal and friendly Inſtances ſhould not prevail, you would effectually ſupport his Majeſty in taking ſuch Meaſures as Honour and Juſtice ſhould render neceſſary.

'From hence, my Lords, it appears to have been the Opinion of this Houſe laſt Seſſion of Parliament, that we had then no Occaſion to come to an immediate Rupture with *Spain*; but that his Majeſty ſhould firſt try what he could do by peaceable Means for obtaining Reparation for paſt Injuries, and Security againſt any ſuch for the future. Accordingly his Majeſty did, in purſuance of this Advice from his Parliament, renew his Negotiations with the Court of *Spain*; and to give his Negotiations their proper Weight, he fitted out ſuch Squadrons as were ſufficient for protecting the Trade, and vindicating the Honour of this Nation by Force of Arms, in caſe that Court had refuſed, or unreaſonably delay'd hearkning to thoſe friendly Inſtances that were made to them by his Majeſty.

'This, my Lords, we now find has had the deſired Effect. From the Preparations that were made here at Home, and the Squadrons that were fitted out, *Spain* ſaw that we were

were in Earneſt, that his Majeſty was reſolved not to be any longer trifled with, and therefore they began ſeriouſly to conſider the Conſequences of an open Rupture. Theſe Conſequences they had Reaſon to be afraid of, they were afraid of them, and by their Fears they were induced, I may ſay compelled, to give Ear to the friendly Inſtances that were made to them, and to acknowledge the Injuries they had done, by promiſing to make as ample a Satisfaction as we could reaſonably inſiſt on. I ſay, my Lords, as ample a Satisfaction as we could reaſonably inſiſt on; for ſurely, if we expected Satisfaction from them, it was but reaſonable that we ſhould allow them Satisfaction for all the juſt Claims they had upon us. According to this, which is certainly the juſt, and the only reaſonable way of reckoning, in every Caſe where there are mutual Demands, the ſtipulated Payment, which they have agreed to make in four Months after the Ratification of the Treaty, is a full Reparation for all the Demands we had to make upon them, allowing a reaſonable Diſcount for prompt Payment. For, even according to the Account ſtated by our own Commiſſaries, the Claim of our Merchants did not, at a moderate Computation, amount to above 200,000 *l.* and the Claims they had upon us, were allowed to amount to at leaſt 60,000 *l.* which reduced the Sum due by them to us to 140,000 *l.* for the prompt Payment of which, we have allowed them 45,000 *l.* which is but a reaſonable Allowance, conſidering the Delays we might have met with, if we had accepted of Aſſignments upon his Catholic Majeſty's Revenues in *New Spain*: Allowing therefore of this Diſcount, it reduces the 140,000 *l.* which is all we could pretend to be due, to the Sum of 95,000 *l.* which Sum they have, by this Convention, expreſly promiſed to pay here at *London*, within four Months after the Ratification; and that, without delaying the Payment of the ſaid Sum, on account of any Reſtitution that has been made, in conſequence of his Catholic Majeſty's Orders, of the whole, or any Part of the Value of the Ships mentioned in the fourth Article.

Ann. 12 Geo. II. 1738-9.

'Thus, my Lords, we may ſee, that by this Convention his Majeſty has obtained one of the chief Things recommended to him by his Parliament laſt Seſſion; and as this has been obtained without involving the Nation in a War, we have the more reaſon to thank his Majeſty for the tender Regard he has had, not only for thoſe of his Subjects that have already ſuffered by the *Spaniſh* Depredations, but for all his Subjects; becauſe it is certain they would all have greatly ſuffered, if he had raſhly and unadviſedly involved the Nation in a dangerous and expenſive War. But with reſpect

Ann. 12 Geo. II. 1738-9.

to our future Security, as it depends upon Diſputes, which it was impoſſible to enquire into fully, and determine abſolutely, without a very mature Deliberation, therefore, from the very nature of the Thing, we could not expect, nor could his Majeſty with any Show of Reaſon inſiſt upon its being explicitly provided for by a preliminary Convention; however, his Majeſty has taken ſo great Care of the future Security of our Navigation and Commerce, that he has got the *Spaniſh* Court to agree, by this Convention, to ſubmit all the Diſputes that now ſubſiſt between the two Nations, to the Diſcuſſion of Plenipotentiaries, to be named reſpectively by the two Crowns; and, that no chicaning Delays may be made uſe of on the Part of *Spain*, it is expreſly provided, that the Plenipotentiaries ſo named ſhall begin their Conferences ſix Weeks after the Exchange of the Ratifications, and ſhall finiſh them within the Space of eight Months.

'This was, in my Opinion, my Lords, all that it was poſſible to do by a preliminary Convention, with regard to the other Diſputes that now ſubſiſt between us and *Spain*; but though the final Determination of thoſe Diſputes be deferred for a ſhort Time; though we have ſubmitted them to the Diſcuſſion of Plenipotentiaries, yet by ſuch Delay and Submiſſion, we are ſo far from having acknowledged any of our undoubted Rights to be diſputable, as has been groundleſly inſinuated, that the *Spaniards* have, in ſome Meaſure, given up that Right, which is the principal one in diſpute between the two Nations. They pretended to a Right to ſearch our Ships in the Seas of *America*, in order to ſee whether they had been concerned in an illicit Trade, and to ſeize and confiſcate Ship and Cargo, in caſe it appeared that they had been concerned in ſuch a Trade, by their having what they call Contraband Goods on Board. They have by this Convention agreed to make good to us the Damages we have ſuſtained by their Exerciſe of ſuch a pretended Right. They have agreed to pay us Coſts; and is not this a direct Acknowledgment that they have been in the Wrong? This is at leaſt a tacit Acknowledgment, that they now think they had no juſt Claim to the Right they have ſo long pretended to; and this, I think, is a certain Sign, that by the definitive Treaty, which is to be concluded in purſuance of this preliminary Convention, they will make no Scruple to give it up in the moſt expreſs Terms we can deſire.

'But, my Lords, with regard to the preſent Diſputes between the *Spaniards* and us, I find People have generally fallen into a very great Miſtake, by not diſtinguiſhing properly between a Right, and the Enjoyment of that Right. We have a Right to a free Navigation in the *American* Seas, and to carry

carry on what Commerce we think fit between our own Colonies and *Great Britain*, or between any one of our own Colonies and another: This is a Right which the *Spaniards* never pretended to diſpute with us. On the other hand, they have a Right to prevent the carrying on of any Contraband Trade with their Settlements in *America*; which is a Right we never pretended to diſpute with them. The chief Diſpute between us, is about the Enjoyment of our reſpective Rights. They do not diſpute our Right to a free Navigation in the *American* Seas; but the Queſtion between us is, how we ſhall enjoy that Right, ſo as not to prejudice their Right to prevent a Contraband Trade's being carried on with their Settlements in that Part of the World: Nor do we diſpute their Right to prevent ſuch a Contraband Trade; but the Queſtion is, how they ſhall enjoy that Right, ſo as not to prejudice our Right to a free Navigation. This is the chief Diſpute now ſubſiſting between the two Nations; this muſt be regulated before Peace and Friendſhip can be fully reſtored; and this could not be done in a ſhort Time, or by a preliminary Convention. The Affair muſt be fully examined, and maturely conſidered, in order to contrive, and mutually ſettle ſuch Regulations as may not be prejudicial to either. For this Reaſon it was referred by both to be enquired into, and regulated by Plenipotentiaries: But what are theſe Plenipotentiaries to regulate? Not the Rights of either Nation; but only the Methods by which each Nation is to enjoy its reſpective Right for the future.

Ann. 12 Geo. II. 1738-9.

'My Lords, if we would but conſider our own Caſe, I am perſwaded we would look upon this as an Affair not quite ſo eaſy to be ſettled as ſome People imagine. We pretend to a Right, and we certainly have a Right, to prevent any Goods from being clandeſtinely run into this Iſland, or into any of our Dominions. We pretend to a Right, and we certainly have a Right to prevent the Exportation of our Wool. On the other hand, the *Dutch* and *French*, and all other Nations, have a Right to ſail with their Ships along our Coaſts, and even through the *Britiſh* Channel. As long as they give us the Honour of the Flag, and abſtain from all clandeſtine and prohibited Trade, we have no Right to interrupt them; yet every one knows, that our Guard-ſhips and Cuſtom-houſe Sloops often ſtop them in their Voyage, in order to examine, whether they have been concerned in any clandeſtine Trade, ſuch as the exporting of Wool, or running any prohibited uncuſtomed Goods. Nay, we have gone ſo far as to make Laws againſt Ships that ſhall be found hovering *within two Leagues* of our Coaſt; and particularly, by a Law paſſed but very lately, it is enacted, That, where

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Ann. 12 Geo. II. 1738-9.

any Veſſel coming from Foreign Parts, and having on Board ſix Pound of Tea, or any Foreign Brandy, or other Spirits, in Caſks under ſixty Gallons, except two Gallons for each Seaman, ſhall be found at Anchor, or hovering within the Limits of any Ports of this Kingdom, or *within two Leagues* of the Shore, and not proceeding on her Voyage with the firſt Opportunity, all ſuch Tea, Foreign Brandy, and Spirits, together with the Package, or the Value thereof, ſhall be forfeited, and the ſame may be ſeized.

'This, my Lords, I do not mention with a Deſign to draw any Parallel between our Behaviour, and the Behaviour of the *Spaniards*: We have exerciſed our Right in ſuch a manner, that no foreign Nation has the leaſt Reaſon to ſay we have done them an Injury, or to complain of the Regulations we have made for the Preſervation and Exerciſe of our Right. On the contrary, the *Spaniards* have exerciſed the Right they have to prevent a Contraband Trade with their Settlements in *America*, in ſuch a manner, that not only we, but every Nation in *Europe* that has any Trade in that Part of the World, have juſt reaſon to complain of them, and to inſiſt upon their altering the Regulations they have made for the Preſervation of their Right. Therefore, I ſay, I do not mention this in order to make a Compariſon between their Conduct and ours; but I mention it to ſhew, that where a Nation has a Right of any kind, they have a Power to make ſuch Regulations, even with regard to Foreigners, as they think neceſſary for the Preſervation and Exerciſe of that Right, provided thoſe Regulations be not inconſiſtent with the Law of Nations, nor prejudicial to the Rights or Privileges of their Neighbours. This is the principal Diſpute at preſent between *Spain* and us. We ought in Juſtice to allow them to make ſuch Regulations, as may be neceſſary for preventing the carrying on of any Contraband Trade with their Settlements in *America*; and on the other hand, they ought in Juſtice to give up, and depart from any Regulations they have made, if upon Examination they be found contrary to the Law of Nations, or if by Experience they have been found Prejudicial to the undoubted Rights and Privileges of this Nation. We have a Right to a free Navigation in the *American* Seas; but we ought not to inſiſt upon that Navigation's being ſo very free and unconfined, as to render it impoſſible for the *Spaniards* to prevent an illicit Trade with their Settlements in that Part of the World. We ſhould look upon it as the Height of Injuſtice, if the *French* or *Dutch* ſhould inſiſt upon ſuch an unlimited Navigation along our Coaſts, and through the *Britiſh* Channel, as would render it impoſſible for us to prevent the Exportation

tion of our Wool, or the running of prohibited and uncuſtomed Goods in upon us. If your Lordſhips conſider the Affair in this Light, I am convinced you will be all of my Opinion: You will look upon it as an Affair that could not be eaſily ſettled; and will therefore think, that the moſt his Majeſty could do, was to have it referred to the Plenipotentiaries, in order that they might ſettle ſuch Regulations between *Spain* and us, as might be effectual for the Enjoyment of the Right of each Nation reſpectively, without hurting the Right of the other; and at the ſame time you will ſee, that the Word *regulate*, was the only proper Term upon this Occaſion, and that it does not mean an Acknowledgment of any unjuſt Right pretended to by *Spain*, nor a giving up of any of the undoubted Rights of this Nation, as ſome People have endeavoured to repreſent. Ann. 12 Geo. II. 1738-9.

'It has been proved at your Bar, my Lords, and every Man who conſiders the Situation of our Iſlands, and the *Spaniſh* Iſlands in the *Weſt-Indies*, and the Nature of the Winds and Tides in the *American* Seas, muſt ſee, that the Ships of both Nations muſt often and neceſſarily ſail *within two Leagues* of the Coaſts of one another: Our Ships may even ſometimes be obliged to hover upon their Coaſts; and it may, for what I know, be found abſolutely neceſſary, to allow the *Spaniards* a Liberty, under proper Regulations, to examine ſuch of our Merchant-Ships, as they find hovering within a certain Diſtance of any of their Coaſts in that part of the World. This Liberty, I ſay, may, for what I know, be neceſſary, for enabling them to prevent an illicit Trade's being carried on between our Subjects, and their Settlements in the *Weſt-Indies*. It is a Liberty we ourſelves take with the Ships of all Nations, that are found hovering *within two Leagues* of our Coaſts. Nay, it is a Liberty which ſeems to be granted to them, and eſtabliſhed by the Treaties ſubſiſting between the Two Crowns; for by the 4th Article of the Treaty between *Spain* and us, in the Year 1667, it is expreſsly ſtipulated, That if any Ship belonging to the Subjects and Merchants of the one or other Nation, entering into Bays, *or in the open Sea*, ſhall be encountered by the Ships of War belonging to the other Nation; ſuch Ship of War may examine ſuch Merchant-Ship, and if any prohibited Goods be found on Board ſuch Ship, the ſame may be taken out and Confiſcated. From whence it appears, that the *Spaniſh* Ships of War have already a Power to examine ſuch of our Merchant-Ships as they encounter in the open Seas, whether in *America* or *Europe*; for the Article is without Limitation; and if they have of late made an unjuſt or wrong Uſe of that Power, we ought to inſiſt upon its being

Ann. 12 Geo. II. 1738-9.

being put under ſuch Regulations, as may prevent ſuch a bad Uſe being made of it in Time to come; but as the contriving and ſettling ſuch Regulations, muſt require a Conſultation with thoſe who are well acquainted with the Trade and Navigation in *America*, we cannot ſuppoſe they could be ſetled by a preliminary Treaty; and therefore, the only Meaſure that could be taken, was, to refer them to be ſettled by Plenipotentiaries, ſo as that they might afterwards be made part of a definitive Treaty between the two Nations.

I muſt now, my Lords, beg Leave to conſider a little, the Diſpute between *Spain* and us relating to *Carolina* and *Georgia*. This, likewiſe, my Lords, cannot properly be called a Diſpute about any of the undoubted Rights, either of this Nation, or of *Spain*. They do not diſpute, at leaſt they have not lately diſputed, our Rights to what was formerly called *Carolina*, of which *Georgia* is a Part; nor do we diſpute their Right to the Southern Parts of *Florida*: The only Diſpute between us, is about the Limits between our reſpective Poſſeſſions in that Part of the World; and this Diſpute it was impoſſible to ſettle by a preliminary Convention. Such Diſputes, we know, are ſeldom adjuſted, even by a definitive Treaty; for when any ſuch Diſpute ſubſiſts between two Nations, they often, I may ſay generally, conclude even a ſolemn and definitive Treaty, and by that Treaty they agree, that the Limits between their reſpective Territories ſhall be afterwards adjuſted and ſettled by Commiſſaries or Plenipotentiaries, to be named and appointed by the two contracting Parties reſpectively; and therefore, my Lords, I muſt ſay, I am ſurprized to hear the leaſt Objection made againſt this Part of the Convention now under our Conſideration.

'Tis true, my Lords, we have agreed, that, during the Time that the Diſcuſſion of this Affair, relating to the Limits between *Carolina* and *Florida*, ſhall laſt, Things ſhall remain in the aforeſaid Territories of *Florida* and *Carolina*, in the Situation they are in at preſent, without increaſing the Fortifications there, or taking any new Poſts. This is a ſort of Suſpenſion of the free Enjoyment of our Right, but this is a Confirmation of the Right itſelf; becauſe it imports an Acknowledgment from *Spain*, that we have a Right to ſome Territories in *Florida* or *Carolina*. And for this very Reaſon, it would have been wrong in us to have admitted of any Article or Words in this Treaty, for obliging the *Spaniards* to ſuſpend ſearching our Ships on the open Seas of *America*, during the diſcuſſion of that Affair; becauſe our having ſtipulated any ſuch Suſpenſion, would have been an

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Acknowledgment that they had ſome ſort of Right to do ſo; in which Caſe, ſome Lords would have had much more Reaſon than they have at preſent, to inſinuate, that by this Treaty we had given up, or rendered diſputable, ſome of the moſt undoubted Rights of this Nation. Ann. 12 Geo. II. 1738-9.

'Having thus, my Lords, ſhewn, that no reaſonable Objection can be made to the Treaty now before us, I muſt beg your Lordſhips to conſider the preſent Circumſtances of *Europe*, the Circumſtances of this Nation, and the Relation we ſtand in to *Spain*. To all Nations it muſt be granted, that Peace is a deſirable Thing. It muſt be allowed, that no Nation ought to enter into a War againſt any neighbouring Nation whatever, if they can obtain every Thing they can juſtly demand by peaceable Means. But with regard to this Nation, we ought to be more cautious of entering into a War than moſt others. We are a trading Nation: A great Part of our People ſubſiſt by Trade; and even our landed Gentlemen, who have no concern in Trade, owe a great Part of their yearly Revenue to the Commerce and Manufactures we carry on; for if it were not for our Trade and Manufactures, our Farms could not let at ſo high a Rent as they do, nor could we have near ſo many Houſes in our Towns and Villages. Therefore, as War muſt always interrupt our Trade, we ought to be extremely Cautious of engaging in War, and more ſo with regard to *Spain* than moſt other Nations in *Europe*; becauſe, I believe it will be allowed, that our Trade with *Spain* is more profitable to the Nation in general, than our Trade with any other Nation in *Europe*, except *Portugal* alone. But ſuppoſe we were under a ſort of Neceſſity to engage in War, yet unleſs that Neceſſity were extremely urgent as well as unavoidable, we ought to put off engaging in War for ſome Time, both on account of our own Circumſtances, and on account of the preſent Circumſtances of Affairs in *Europe*. With regard to our own Circumſtances, it muſt be confeſſed, that, conſidering the preſent heavy Load of Debt we labour under, and the many Taxes we are obliged to raiſe for the Payment of that Debt, we are at preſent in no very good Condition for engaging in a dangerous and expenſive War; and with regard to the Affairs of *Europe*, they were never in a more unlucky Situation for us, than they are at this Time. If we ſhould immediately engage in a War with *Spain*, 'tis poſſible, I may ſay, 'tis probable, that the *Spaniards* will be aſſiſted by *France*, and perhaps by ſome other Powers of *Europe* we little dream of at preſent. On the other Hand, as the Emperor is engaged in a War with the *Turks*, and has been moſt ſurprizingly unlucky in the Proſecution of that War,

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War, we can expect no Assistance from that Quarter; and this will of course prevent any of the other Powers upon the Continent from giving us any Assistance, because it will be impossible to form an Army upon the Continent, sufficient for protecting them against the united Force of *France* and *Spain*, assisted, perhaps, by several of the other Princes and States in *Europe*.

'I know, my Lords, it may be said, that as we have the good Luck to be environed by the Sea, and have a Fleet superior to any that *France* and *Spain*, joined together, can bring against us, we may protect our own Trade and Dominions, and so much infest the Trade and Dominions of our Enemies, as to make them, at last, glad to agree to reasonable Terms; but, my Lords, if our Enemies are, by their great Land-Armies, absolute Masters upon the Continent, they may not only prevent our receiving Assistance from any of the Princes or States upon the Continent, but they may induce or oblige them all to join against us; at least, they may oblige them to deny us Access to any of their Ports or Harbours, either for our Men of War or Merchant-Ships, which would at once put an entire Stop to our Trade, and would make it impossible, or very dangerous, to send our Squadrons to any great Distance from our own Ports; for tho' they may be superior to any Squadrons that can be fitted out against them, they are not equal to Winds and Tempests. By these they may be scattered and dispersed, some of them, perhaps, swallowed up, and the rest left a Prey to a pusillanimous Foe, that might lie skulking in Port, and watching for such an Opportunity.

'It must therefore be acknowledged, my Lords, that the present Circumstances of our Affairs, both at home and abroad, are no way suitable for our engaging in an immediate War. I should have been far from saying so much of them, if they had not been well and publicly known. And as every Thing I have said is well known to every Court in *Europe*, I think, that, instead of finding Fault with the little we have obtained by this preliminary Treaty, we have reason to be surprized, that his Majesty was able to obtain so much. If the Treaty had been much less favourable for us, I should have been for approving it, because it would have prevented our being obliged to come to an immediate Rupture; for though the Circumstances of our Affairs, both abroad and at home, be at present in a bad Situation, they cannot long continue so: Our own Circumstances, while we remain at Peace, will be every Day growing better: We shall every Year be able to pay off some part of our Debt, and thereby either diminish our Taxes, or increase our Sinking Fund.

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And as to the Circumſtances of Affairs in *Europe*, they cannot long remain in the preſent Situation: It is the peculiar Happineſs of this Iſland, that no one Nation in the World can attack us; and, if we do not raſhly and unadviſedly attack them, if we will but have Patience, we can ſeldom fail of meeting with a good Opportunity, in every four or five Years time, for making the proudeſt and the moſt powerful Nation in *Europe*, heartily repent of having injured this Nation; and that without expoſing our own Country to the leaſt Danger, or to any great Expence. As there are a great many different Intereſts upon the Continent, as thoſe different Intereſts are every Day creating Diſputes among the Princes and States thereof, and as ſeveral Deaths may happen that muſt give the Affairs of *Europe* a Turn in our Favour; it would be moſt imprudent in us to engage in a War at preſent, when the State of Affairs in *Europe* is in a Situation the moſt unfavourable for this Nation that ever any Age produced; and therefore, I muſt think, that the Convention now before us, was one of the wiſeſt Steps that could be made; and that it highly deſerves the Thanks of every Man who wiſhes well to his Country.

'To what I have ſaid, my Lords, I muſt add, that, in a few Years, we ſhall probably be more united among ourſelves, than we are at preſent. It muſt be allowed, that we have at preſent a very numerous Party amongſt us, who would be ready to join any Invader againſt our eſtabliſhed Government: Some, out of a real Principle, ſome, from the Hopes of making or mending their own private Fortunes by the Change, and ſome from Malice, and an unjuſt Reſentment againſt thoſe who are employed in our Adminiſtration. The Numbers of thoſe who are from Principle diſaffected to our Government, will be decreaſing every Day; becauſe, as their Diſaffection proceeds from a wrong Education in their Youth, their Children have had an Opportunity of learning other Principles, and of diſcovering the Ridiculouſneſs of thoſe Principles by which their Parents were governed; ſo that Nature itſelf muſt put an end to this Diſaffection, ſince it can meet with no conſiderable Supply from the riſing Generation. As for thoſe who hope for Advantage by a Change, their Numbers will always depend upon the probability of Succeſs, and therefore muſt always be greater or leſs, according as the Juncture of Affairs abroad is unlucky or favourable for this Nation: And as to thoſe who are governed by Malice and Reſentment, Time itſelf muſt blunt the Edge of their Paſſions; and common Prudence will prevent their engaging with the Enemies of their Country, when, from the State of

Ann. 12 Geo. II. 1738-9.

Affairs in *Europe*, they can have but little Probability of Succeſs.

'From all which Conſiderations, my Lords, I muſt be of Opinion, that if the preſent Convention had not been near ſo ſatisfactory as it is, it would have been more prudent in his Majeſty to have accepted of it, than to have engaged the Nation in an immediate War; but as I have ſhewn, that we have thereby obtained all we could reaſonably deſire, it muſt be allowed that his Majeſty has cloſely, and with ſurprizing Succeſs, followed the Advice that was given him by his Parliament laſt Seſſion; and therefore, I think, we can do nothing leſs than thank him in the Terms propoſed.'

The Lord *Carteret*.

Lord *Carteret*.

'My Lords, as I have before given you my Opinion upon this Queſtion, which is not in the leaſt alter'd by any thing the noble Lord that ſpoke laſt has ſaid, I riſe up now only to take notice of ſome Things that fell from that noble Lord. In the firſt Part of his Diſcourſe he endeavoured to ſhew, that the Meaſures purſued ſince laſt Seſſion, and the Convention that has been concluded, were agreeable to the Reſolutions and Addreſs of this Houſe laſt Seſſion of Parliament. My Lords, 'tis ſo far otherwiſe, that to any one who reads the Reſolutions we then came to, and the Addreſs we then preſented, both the Meaſures we have purſued, and the Treaty we have concluded, muſt appear to be directly contrary to the Advice we then gave. We adviſed peaceable Meaſures, 'tis true, but we did not adviſe that the Nation ſhould, in the midſt of Peace, be put to the Expences of a War: We adviſed his Majeſty, 'tis true, to endeavour to procure Satisfaction and Security by peaceable Means, but we did not adviſe him to accept of a Treaty which ſtipulates neither the one nor the other: On the contrary, we expreſsly recommended to his Majeſty, to inſiſt not only upon no Search, but upon no contraband Goods; whereas, in the Treaty, his Miniſters adviſed him to accept of, there is not ſo much as a Stipulation againſt either the one or the other, though both have been for ſeveral Years openly and expreſsly pretended to by the *Spaniards*, and many of our Merchants plundered and ruined under that Pretence.

My Lords, to pretend to give Weight to Negotiations by raiſing Armies, and fitting out Squadrons, is a very modern, and a very extraordinary Piece of Politics: A Sort of Politics that was never practiſed in any Country but this, nor in this, before the happy Æra of our preſent Adminiſtration. When a Nation is actually engaged in War, it would, indeed,

deed, be imprudent to diſband their Armies, or lay up their Squadrons, till a Peace is fully ſettled; but in time of Peace, it is ridiculous to put a Nation to the Trouble and Expence of Armaments, till a War is actually reſolved on. As long as there are any Hopes of obtaining Satisfaction by peaceable Means, no wiſe and frugal Government ever put themſelves to the Expence of extraordinary military Preparations. When all ſuch hopes are vaniſhed, they then, indeed, prepare for War; but it is always with a deſign to make a proper Uſe of the Preparations they make, unleſs their Enemies, beſides Satisfaction for all former Demands, agree to make good the Expence which their Obſtinacy has occaſioned. To raiſe Armies, and fit out Squadrons, under pretence of giving Weight to Negotiations, can ſerve no end therefore, but that of Miniſters, who, by ſuch Means, get an Opportunity of filling their own, and the Pockets of their Friends; for there is no Power we can negotiate with, but knows, that we can both raiſe Armies, and fit out Squadrons, in caſe our Negotiations ſhould prove unſucceſsful; and our putting ourſelves to ſuch Expence, before we know the Iſſue of our Negotiations, muſt give thoſe we negotiate with, a bad Opinion of our Conduct, which will of courſe diminiſh the Weight of our Negotiations; becauſe they will conclude, that thoſe who do not know how to govern in Time of Peace, will much leſs know how to govern in Time of War. This we may know from fatal Experience; for this Nation had never ſo little Influence upon the Councils of *Europe*, as ſince we began to pretend to give Weight to our Negotiations, by maintaining or increaſing peaceable Armies, or fitting out harmleſs Squadrons: We have, by a long Courſe of ſuch Politics, I am afraid, brought the Nation into ſuch Contempt, that our Neighbours now as little regard our military Preparations, as they do our pacific Negotiations; and we have of late Years made ſo many Counter-treaties, that, I'm afraid, every Nation in *Europe* deſpiſes our Promiſes, as much as they contemn our Threatnings.

Ann. 12 Geo. II. 1738-9.

'If we conſider what has been done ſince laſt Seſſion, and the great Expence the Nation has been put to; nay, if we give Credit to what has been inſinuated by the noble Lords who have ſpoke in Favour of this Convention, we cannot ſay his Majeſty has obtained this Treaty, inſignificant as it is, by peaceable Meaſures, but by Warlike Preparations; and if the Obſtinacy of the *Spaniards* made ſuch Preparations neceſſary, they, and not the People of this Nation, ought to have been made to pay for their Obſtinacy. But with Regard to the Treaty itſelf, if we will but look upon the Reſolutions and Addreſs of laſt Year, we muſt ſee that is ſtill more contrary

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to the Advice we then gave. We adviſed and recommended in the ſtrongeſt Terms, that his Majeſty ſhould inſiſt upon no Search, and alſo upon no contraband Goods: In this Treaty there is not a Word of either; and yet every one muſt allow, that we recommended, and that we had great reaſon to recommend, that the *Spaniards* ſhould be obliged, either by peaceable Means, or by Force of Arms, to paſs from both theſe Pretences in the moſt expreſs Terms. The *Spaniards*, my Lords, may, without our Conſent, make what Regulations they pleaſe for preventing an illicit Trade with their Colonies in *America*, provided theſe Regulations be not inconſiſtent with the Law of Nations, nor contrary to the Treaties ſubſiſting between the two Crowns: But that of ſearching our Ships on the open Seas, is not only inconſiſtent with the Law of Nations, but expreſly contrary to the Treaties ſubſiſting between the two Crowns. The noble Lord was pleaſed to repeat a Part of the 14th Article of the Treaty of 1667: I wiſh he had repeated the Whole; for by that Article it is expreſly ſtipulated, 'That if any Ship be-'longing to the Subjects and Merchants of the one or the 'other Nation, *entring into Bays*, or in the open Sea, ſhall 'be encountred by the Ships of War of the other; ſuch Ships 'of War, to prevent Diſorders, *ſhall not come within Can-'non-ſhot*, but ſhall ſend their Long-boat, or Pinnace to the 'Merchant ſhip, *and only two or three Men on Board*, to 'whom the Maſter ſhall ſhew his Paſſports and Sea-letters, *to 'which, entire Faith and Credit ſhall be given.*' Nay, by the foregoing Article it is provided, 'That if the Ships be-'longing to the Subjects of the one or other Nation, be ne-'ceſſitated to anchor in the Roads or Bays of either, or even 'to enter into the Ports of either, *they ſhall not be moleſted or 'viſited*; but that it ſhall be ſufficient for them to ſhew their 'Paſſports or Sea-letters, which being ſeen by the reſpective 'Officers of either King, the ſaid Ships ſhall return freely to 'Sea without any Moleſtation.' From hence we may ſee, how careful our Adminiſtration was in the Reign of King *Charles* II. to guard againſt our Merchant-ſhips being expoſed to the Trouble and Inconveniencies of a Search; and yet ſome ſome People are as ready to cenſure every thing that was done in that Reign, as they are ready to applaud every thing that has been done in the preſent.

'This Treaty of 1667, my Lords, as the noble Lord that ſpoke laſt has obſerved before me, is a general and unlimited Treaty: It relates to the Seas of *America*, as well as to the Seas of *Europe*; and as it has been renewed and confirmed by every Treaty betwixt the two Crowns ſince that Time, it plainly demonſtrates, that the ſearching our Ships

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in any Part of the World, or under any Pretence whatsoever, is contrary to Treaty, as well as inconsistent with the Law of Nations. Therefore, as the *Spaniards* have lately set up a Pretence to search our Ships on the open Seas of *America*, before we had submitted to treat with them about any Regulations, for rendering effectual the Right they have to prevent an illicit Trade with their Settlements in that Part of the World, we ought to have insisted upon their passing from this Pretence, in the most explicit Terms that could be made use of.

'Now, my Lords, with Regard to contraband or prohibited Goods, for we must take care to distinguish between the two: Because contraband Goods are only Arms, Ammunition, and other Utensils of War, which are on Board a Ship bound to an Enemy's Port; therefore none of our Ships, either in the *American* Seas, or any other Seas, can have any Goods on Board, which the *Spaniards* can call contraband, unless she be bound to some of the Ports of those who are at that very Time in War with *Spain*. But suppose a *Spanish* Ship of War should meet at Sea a *British* Ship, and that by her Passports or Sea-letters, it should appear, that she is bound to a Port then belonging to the Enemies of *Spain*; for it can no other Way appear but by her Passports or Sea-letters, as is evident from the 14th Article of the Treaty of 1667, which I have already mentioned: Yet even in that Case, the *Spaniards* are not to search the *British* Ship at Sea, nor are they to confiscate the Ship and Cargo, for the sake of the contraband Goods that appear to be on Board. But by the 23d Article of the same Treaty, it is expressly provided, 'That in case any contraband 'Goods be found on Board, *by the above-said Means*, they 'shall be taken out and confiscated; *but for this Reason the 'Ship and the other free and allowed Commodities which shall 'be found therein, shall in no wise be either seized or confisca-'cated.*' And to prevent all Disputes about what may be deem'd contraband, the several sorts of Goods to be deem'd contraband, are particularly enumerated in the 24th Article; and by the 25th Article it is expressly stipulated, 'That 'Wheat, Rye, Barley, or other Grain, or Pulse, Salt, 'Wine, Oil, and generally whatsoever belongs to the sustain-'ing and nourishing of Life, shall not be deemed contraband, 'though designed to be carried to the Towns or Places of 'Enemies, unless such Town or Place be besieg'd, and block'd 'up, or surrounded;' which shews, that if the *Spaniards* had the least Regard for this Nation, or for the Treaties subsisting between the two Crowns, they would never have pretended to have seized a *British* Ship in the *American* Seas, on account of her having any contraband Goods on Board.

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Ann 12. Geo. II. 1738.

'As to prohibited Goods, my Lords, they are very different from thoſe properly called contraband. Prohibited Goods, which in *Latin* are called *merces prohibitæ*, without adding the Words *vulgo contrabandæ*, are ſuch Goods as are prohibited to be imported, or ſuch as are prohibited to to be exported, by the Laws of any particular Country. Both in *Spain* and *England* there are Goods which are prohibited to be exported, and as there is an Intercourſe of Trade between the two Nations in *Europe*, the Subjects of *England* may be liable to be puniſhed, if they ſhould export from *Spain* any of the Goods prohibited to be exported by the Laws of that Kingdom, as well as the Subjects of *Spain* may be liable to be puniſhed, if they ſhould export from hence any of the Goods prohibited to be exported by the Laws of this Kingdom. This, I ſay, may be the Caſe with Regard to our reſpective Dominions in *Europe*; and therefore this Caſe too was regulated by the Treaty of 1667; for by the 15th Article of that Treaty it is ſtipulated, 'That 'if any prohibited Goods be exported from the Territories 'of either of the ſaid Kings, by the reſpective Subjects of 'the one or the other, the prohibited Goods ſhall be *only* 'confiſcated, *and not the other Goods*; neither ſhall the De- 'linquent incur any other Puniſhment, except he ſhall carry 'out from the Dominions of the King of *Great Britain*, 'the proper Coin, Wool, or Fullers Earth of the ſaid King- 'doms; or ſhall carry out of the Kingdoms or Dominions 'of the ſaid King of *Spain*, any Gold or Silver, wrought 'or unwrought; in either of which Caſes the Laws of the 'reſpective Countries are to take place.'

'But, my Lords, as there is no Intercourſe of Trade between the Subjects of *Great Britain*, and the *Spaniſh* Settlements in *America*, or between the Subjects of *Spain* and the *Britiſh* Settlements in that Part of the World, therefore there can be no Goods on Board any Ships of the one Nation trading in thoſe Seas, that can be called Prohibited by the other. The very Trade itſelf is prohibited, and conſequently every Shilling's worth that any *Britiſh* Ship can export from the *Spaniſh* Settlements in *America*, let the Goods be of whatever ſort or kind, muſt be prohibited; and may be ſeized and confiſcated, not becauſe ſhe has got prohibited or contraband Goods on Board, but becauſe ſhe has been concerned in an illicit Trade.

'From what I have ſaid, my Lords, it muſt appear, that no *Britiſh* Ship ſailing in the *American* Seas, can have any Goods on Board, which the *Spaniards* can call prohibited or contraband Goods; and as they have lately ſet up ſuch a Pretence, and have ſeized and confiſcated a great many of our Ships on that Account, therefore we ought to

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have inſiſted upon their waving that Pretence, before we had ſubmitted to treat with them upon any other Article. But ſuppoſe the *Spaniards* ſhould ſay, they do not ſeize our Ships in the *American* Seas on account of their having prohibited, or contraband Goods on Board, but on account of their having Goods on Board, which are the proper Produce of their Settlements in that part of the World, becauſe they look upon their having ſuch Goods on Board, as an inconteſtable Proof of ſuch Ships having been concerned in an illicit Trade with their Settlements. My Lords it would be ridiculous in us to admit of this, and ſtill more ridiculous to admit of their ſearching *Britiſh* Ships on the open Seas of *America* upon this Pretence; for they would certainly, ſoon after, pretend to ſearch every Ship they met with in the *European* Seas, and to confiſcate Ship and Cargo, in caſe they ſhould find any *Spaniſh* Gold or Silver on Board, becauſe they would ſay, that her having *Spaniſh* Gold or Silver on Board, was an inconteſtable Proof of her having exported it clandeſtinely from ſome Part of *Spain*, and conſequently that the Laws of their Country ought to take place, according to the 15th Article of the Treaty of 1667. Whereas by that Treaty, and by the Cuſtom every ſince, no *Britiſh* Ship can be ſearched on the open Seas by any *Spaniſh* Ship of War; and conſequently even thoſe Goods which are prohibited to be exported from *Spain*, cannot be ſeized or confiſcated, after they are loaded on board a *Britiſh* Ship, and that Ship fairly out at Sea, unleſs it ſhould appear by her Paſſports or Sea-Letters, that they were exported from *Spain*, which is a Caſe that can never happen; for it can never appear by a Ship's Paſſports or Sea-Letters, that ſuch Goods were exported from *Spain*; becauſe when they are exported from thence clandeſtinely, as they muſt be, no account of them can appear in the Ship's Paſſports or Sea-Letters; and ſuch Goods, when exported from any other Country, cannot then be called prohibited Goods by the *Spaniards*; becauſe they appear then by the Ship's Paſſports or Sea-Letters, not to have been exported from *Spain*, and conſequently can neither be ſeized nor confiſcated by the *Spaniards*.

Ann. 12 Geo. II. 1738-9.

'I ſhall allow, my Lords, that the *Spaniards* have as good a Right to prevent an illicit Trade with their Settlements in *America*, as we have to prevent an illicit Trade with ours. Between theſe two Caſes a Parallel may be drawn, in order to ſee which of us takes the wiſeſt and the juſteſt Methods for preſerving our Right. But I was ſurprized to hear a Parallel attempted to be drawn between an illicit Trade with the *Spaniſh* Settlements in *America*, and a clandeſtine or unlawful Trade upon the Coaſts of *Great Britain*

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Ann. 12 Geo. II. 1738-9.

and *Ireland*. In the former there is no Intercourſe of Trade allowed to Foreigners: No foreign Ship can enter any of their Ports, but in Caſes of the greateſt Neceſſity; therefore it is eaſy to prevent an illicit Trade, without any ſevere Precautions: To which I muſt add, that as there is no Convenience of Land-Carriage from the By-Creeks and Corners of their Coaſts to any of their great Towns, no illicit Trade can be carried on, but at Places near ſome of their great Towns, and there it would be eaſy to prevent it, by proper Officers and proper Regulations at Land: Nay, even one of their own Governors was of Opinion, as appears by a Letter of his, which was read at our Bar, that it would be eaſy to prevent an illicit Trade, by proper Precautions at Land, without employing one *Guarda Coſta* at Sea. Whereas in *Britain* and *Ireland* there is a free Intercourſe of Trade allowed to all Foreigners, and convenient Land or Water-Carriage from every By-creek and Corner of our Coaſts, to many populous Cities and Villages; and therefore, it is ſo eaſy for Foreigners, as well as our own Subjects, to run prohibited or uncuſtomed Goods in upon us, or to ſteal our Wool or Fuller's-Earth away from us, that it is abſolutely neceſſary for us to take Precautions, both by Sea and Land, againſt ſuch Practices.

'However, my Lords, notwithſtanding the Difficulty we labour under in this Caſe, let us but conſider the Laws we have made againſt exporting of our Wool, and againſt Smuggling, and we ſhall find, that no foreign Nation can have the leaſt Ground to complain of them, nor can any Foreigner ſuffer by them, unleſs he is really guilty, or very much to blame. We have, 'tis true, very ſevere Laws againſt the Exportation of our Wool, and we have Guard-ſhips appointed on purpoſe, and inſtructed to ſeize all Ships exporting that valuable Commodity to foreign Parts; but thoſe Guardſhips never pretend to ſearch or ſeize any foreign Veſſel, unleſs they have a full Proof, or very great Cauſe of Suſpicion, that ſhe has Wool on board, which was actually exported, or carried out to her, from ſome Part of *Britain* or *Ireland*. And as to thoſe Laws that have been made againſt Ships hovering within two Leagues of our Coaſts, they are ſo limited, that it is hardly poſſible any Foreigner can ſuffer, unleſs he has a real Deſign to ſmuggle; for, even by the laſt Act that was made againſt ſuch Ships, which is the moſt ſevere, I mean the late famous ſmuggling Act, paſſed but about three Years ſince, the Veſſel muſt have Tea, or foreign Spirits on board, and thoſe Spirits muſt be in Caſks under ſixty Gallons; and farther, ſhe muſt not only appear to be hovering, but alſo it muſt appear, that ſhe did not proceed on her Voyage, Wind

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and Weather permitting, and without the Maſter's being able to ſhew, that ſhe was detained, or prevented from proceeding, by any neceſſary Cauſe whatſoever. Ann. 12 Geo. II. 1738-39.

'But, my Lords, leſt ſome of the *Spaniſh* Advocates in this Country ſhould, from theſe Laws, pretend, that we may allow the *Spaniards* to make free with ſuch of our Ships as they find ſailing within two Leagues of their Coaſts in *America*, I muſt take notice of ſome very material Differences between the *Britiſh* and the *American* Seas. In the firſt place, I am ſure no Man that has a true *Britiſh* Heart, will allow the *Spaniards* to uſurp ſuch a Dominion over the *American* Seas, as we have a juſt Right to over the *Britiſh*. And, in the next place, I muſt obſerve, that no foreign Ship, not bound for any of our Ports, can have the leaſt Occaſion to come within two Leagues of any Part of our Shore, and much leſs to hover within two Leagues of our Shore, unleſs ſhe has ſome bad Deſign; but, on the contrary, as our Coaſts are flat, and full of Sand-banks, every fair Trader will endeavour to keep above two Leagues from our Shore. Whereas, there are none of our Ships that come from *Jamaica* to *Britain*, or that are bound from thence to any of our Colonies upon the Continent of *America*, but muſt ſteer their Courſe cloſe in with the Shore of the *Spaniſh* Iſlands of *Hiſpaniola* or *Cuba*: The Reaſon of this is, becauſe the Courſe from *Jamaica*, by the Windward Paſſage, is much ſafer than that by the Gulph of *Florida*; therefore it is choſen by all Ships coming from *Jamaica*, if they can poſſibly make it; but as the Trade-Winds are almoſt directly in their Teeth, they are obliged to keep cloſe in with the *Cuba* Shore, becauſe there is a Land-Breeze comes off from that Iſland, which greatly aſſiſts them in their Courſe, and without which it would be impoſſible for them to make the Windward Paſſage. And even when they find they cannot make the Windward Paſſage: When they find they muſt bear away for the Gulph, they muſt, for many Leagues together, ſail along the *Cuba* Shore; and as they are obliged, after they paſs *Cape St. Antonio*, upon the Weſt End of the Iſland of *Cuba*, to turn up againſt the Trade-Winds, they are under a Neceſſity of keeping cloſe in with the *Cuba* Shore, in order to take the Benefit of the Land-Breezes from that Iſland; for otherwiſe they would be in great Danger of being forced by the Trade-Winds and the Currents, either into the Gulph of *Mexico*, or upon the *Martieres*; the Danger of which has been confirmed by Experience; for it was proved at our Bar, that two Ships were loſt but laſt Year, becauſe they, in their Courſe, kept farther from the Shore of *Cuba* than uſual, in order to avoid the *Guarda Coſta's*, by which

Ann. 12 Geo. II. 1738-9.

Means they were both drove upon the *Martieres* and loſt. But this is not all, our Ships muſt not only keep cloſe in with the *Cuba* Shore, but when they are endeavouring to make the Windward-Paſſage, they are often obliged to hover near that Shore, or the Shore of *Hiſpaniola*, for two or three Weeks, when the Trade-Winds blow hard, in order to wait for a Calm, that they may thereby have an Opportunity of making that Paſſage.

'This ſhews, my Lords, that we cannot allow the *Spaniards* to ſearch our Ships within any Limits at Sea, even though they ſhould be found hovering upon their Coaſts; and they have made ſo bad an uſe of the Power they have lately uſurped, that we have, I am ſure, no Reaſon to give them a Right to that Power by Treaty, under any Limitations whatever. But farther, it is a Power they have no Occaſion for, unleſs it be to injure and interrupt our Trade; for their Coaſts are not like ours in *Britain* and *Ireland*: They are not full of Inhabitants, and fiſhing or trading Villages at every Creek: They have no Inhabitants, but in, or near their great Towns, therefore no illicit Trade can be carried on but in their Ports, or at ſome Creek very near them; and there it is impoſſible to carry on any illicit Trade, but by the Connivance of the *Spaniſh* Governor, which is generally purchaſed by illicit Traders, in which Caſe the *Spaniſh Guarda Coſta's* dare not touch them; ſo that theſe *Guarda Coſta's* can be of no real Uſe, but to moleſt and plunder, or ſeize, under frivolous Pretences, thoſe foreign Ships, that have no Deſign to carry on an illicit Trade with the *Spaniſh* Settlements, and therefore will not be at the Expence of making Preſents to *Spaniſh* Governors.

'I hope, my Lords, I have now made it appear, that no Regulations can be ſettled between *Spain* and us, for preſerving the Right they have to exclude Foreigners from carrying on any Trade in their Settlements in the *Weſt-Indies*. They may lay what Penalties and Forfeitures they will upon their own Subjects in that Part of the World: They may even lay what Penalties and Forfeitures they will, upon thoſe *Britiſh* Subjects that ſhall come within their Territories, contrary to the Treaty 1670; but they can lay no Penalty or Forfeiture on, nor can they ſubject to their Regulations, any *Britiſh* Ship or Subject that does not come within their Territories in *America*, which we cannot allow them to extend beyond the Limits of their Ports, Havens, and inhabited Creeks, unleſs we have a Mind to yield up to them the Sovereignty of the *American* Seas, which I hope no *Britiſh* Miniſter will dare, Therefore, I cannot comprehend what our Plenipotentiaries have to regulate, with relation to our Trade and Navigation, unleſs they are to regulate and reſtrain

ſtrain (for every Regulation muſt be a Reſtraint) our Right to a free Navigation in the *American* Seas; or our Right to carry in our Ships, whatever Goods or Merchandize we pleaſe, from one Part of his Majeſty's Dominions to another. From hence it is evident, that this Convention is ſo far from being agreeable to the Reſolutions of this Houſe laſt Seſſion, that it is directly contrary to them; for which Reaſon, it ought certainly to be ſome way amended.

'But to me, my Lords, no Amendment can be of any Signification. I ſhall be againſt the Motion, however amended: The Convention I cannot approve of in any Shape, or in any Words: I have ſhewn it to be a moſt diſhonourable and deſtructive Treaty, and therefore, if any Motion had been made for cenſuring it, I ſhould have moſt heartily concurred; but as no ſuch Motion is now before us, I ſhall ſatisfy my ſelf with giving a Negative to the preſent Queſtion. In this, I hope to have a Happineſs I have been for many Years very little accuſtomed to: I hope to have the Concurrence of a great Majority of this Houſe; for ſurely, no Lord that hears me, can be under the leaſt Difficulty in joining with me upon this Occaſion. If the Queſtion had been for cenſuring this Treaty, bad as it, ſome Lords might have found themſelves under Difficulties: They might, perhaps, have been unwilling to cenſure what has been done by their Friends; but no Rule of Friendſhip can lay them under a Difficulty in giving their Negative to the preſent Queſtion. It is only refuſing to approve of what they think does not deſerve their Approbation; and to approve with our Lips, of what we in our Hearts deſpiſe, is the Part of a Flatterer, not of a Friend.'

The Earl of *Cholmondeley*.

Earl of *Cholmondeley*.

'My Lords, As I am far from having the leaſt Doubt of our Right to a free Navigation in the *American* Seas, or of our Right to carry in our Ships what Goods or Merchandize we think proper, from one Part of his Majeſty's Dominions to another, I very much approve of what the noble Lord that ſpoke that laſt hath ſaid in Vindication of theſe our Rights; but from his having been at the Pains to ſay ſo much in their Vindication, I am perſuaded the *Spaniards* may have ſomething to ſay againſt them, or at leaſt that they may have ſome Reaſons to offer, why we ſhould agree to their being laid under ſome Regulations, in order to ſecure them againſt an illicit Trade's being carried on by our People in their Settlements; and this convinces me, that our Diſputes upon this Subject, were of ſuch a nature, as could

Ann. 12 Geo. II. 1738-9.

not be fully ſettled by a preliminary Treaty. It muſt require ſome time to convince the *Spaniſh* Court, that theſe our Rights can admit of no Regulations, eſpecially, as it is the Intereſt of the *Spaniſh* Governours and Captains of *Guarda Coſta's* in *America*, to inſiſt upon it that they may; and as there is nothing in the Convention now before us that can in the leaſt derogate from either of theſe Rights, I am far from having ſuch an Opinion of it as ſome noble Lords have been pleaſed to expreſs. On the contrary, I think it the moſt we could expect in ſo ſhort a time, and therefore, I thought the leaſt I could do, was to move for an Addreſs in the Terms I have taken the Liberty to propoſe.

'If this were a ſolemn and definitive Treaty, my Lords, there might be ſome Reaſon for ſaying, that it did not come up to our Reſolutions and Addreſs of laſt Seſſion; but as it is only a preliminary Convention, and as by this Preliminary his Majeſty has obtained, by peaceable Meaſures, a Part of what was recommended to him laſt Seſſion, I mean Reparation for our Loſſes, and has, in my Opinion, laid a Foundation for obtaining, by the ſame Means, all that was recommended to him; I think he deſerves Thanks from every Man who delights in Peace, or wiſhes Proſperity to the Trade and Navigation of *Great Britain*. From ſuch, I ſay, he deſerves Thanks; and he deſerves it the more, on account of his having obtained thoſe Terms by peaceable Meaſures: For though the fitting out of Squadrons may be called Warlike Preparations, they cannot be called Warlike Meaſures; and whatever other Lords may think, I ſhall always be of Opinion, that, in time of Peace, as well as in time of War, the Courts we negotiate with will have the more Regard to what we propoſe, when they know we are ready to back our Propoſals with a well diſciplined Army, and a powerful Fleet to convey that Army wherever we have a Mind. We can, 'tis true, raiſe Armies, and fit out Squadrons whenever we pleaſe, but we can do neither in an Inſtant; and when Foreign Powers know that we have none ſuch ready, they will of courſe ſuppoſe, they may have time to prepare for their Defence, before we can be in a Condition to attack them; which will render them leſs pliable than they would be, if they knew that the immediate Conſequence of their Refuſal would be a powerful Invaſion from this Kingdom, upon ſome Part of their Territories.

'For theſe Reaſons, my Lords, I do not think the Motion I have made ſtands much in need of any Amendment; but if the noble Lord that ſpoke laſt, or any other Lord, will pleaſe to propoſe an Amendment, I ſhall willingly agree to it, unleſs it appear to be a very unreaſonable one; for all that

that I propoſe, my Lords, is, that we ſhould make ſuch a Compliment upon the preſent Occaſion to his Majeſty, as has always been uſual when any Treaty, Convention, or Negotiation has been laid before this Houſe by the King's Order. This, I think, is upon all ſuch Occaſions neceſſary; but, upon the preſent, I muſt think it more neceſſary than upon moſt others? becauſe his Majeſty's Succeſs, with regard to the ſolemn and definitive Treaty, which is to be concluded in purſuance of this preliminary Convention, muſt entirely depend upon the Reſpect ſhewn to his Majeſty by his Parliament, upon this Occaſion.'

The Earl of *Cheſterfield.*

'My Lords, I very little mind the Addreſs propoſed, or any Addreſs that can be propoſed upon this Occaſion: Nor am I under the leaſt Concern, whether you amend it or no; for I ſhall be againſt it, however amended. I think this Convention the moſt inglorious, the moſt pernicious, that this Nation ever made; and therefore I ſhall be againſt any Thing that may ſeem to inſinuate the Approbation of this Houſe. We are ſworn to be faithful Counſellors to his Majeſty, and I think it would be deceiving him, it would be a Breach of our Honour, a Breach of our Oath, to preſent to his Majeſty an Addreſs that may bear the moſt diſtant Reſemblance of an Approbation of ſuch a Treaty. I do not know who were the Authors of it; and therefore I cannot condemn the Convention becauſe of the Authors; but I muſt condemn the Authors, be who they will, becauſe of the Convention. But, my Lords, though I do not know who were the Authors, I know who were not: I know his Majeſty was not: I know he would never have approved of it, if Matters had not been egregiouſly miſrepreſented to him. It is not, my Lords, to the King, we are to ſhew our Reſpect by an Addreſs upon this Occaſion: It is to his Miniſters; for I muſt always look upon Addreſſes that ſeem to inſinuate an Approbation of public Meaſures, as Addreſſes made to the Miniſters who adviſed and conducted thoſe Meaſures. It is not therefore to the King, but to his Miniſters, that we are to ſhew our Reſpect upon this Occaſion; and the only Method, by which we can regain from foreign Nations, that Reſpect which is due to this, and that which we have forfeited by our late Conduct, eſpecially by our agreeing to this Convention, would be to ſhew no Reſpect to thoſe that made it, but to cenſure it, and then addreſs his Majeſty, to know who had adviſed it. This would be ſhewing a due Reſpect to our Sovereign, and a due Reſpect to our

Earl of *Cheſterfield.*

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own Honour. As for our Success, with regard to the solemn and definitive Treaty, that is to be concluded in pursuance of this preliminary Convention, I hope we shall have none; I would disappoint it if possible; for I am sure it is impossible to obtain an honourable Treaty, in pursuance of such a dishonourable Preliminary.

'Last Session of Parliament, my Lords, we strengthened the Hands of the Crown in a most extraordinary Manner; We put it in the Power of the Crown to obtain Satisfaction, Reparation, and Security, by force of Arms, if they could not be obtained by peaceable Means; but no proper Use has been made of the extraordinary Powers we then granted. Great Fleets have, indeed, been fitted out: The Nation has been put to great Expence, our Seamen harrass'd, and our Trade interrupted: From these mighty Preparations the Nation expected great Things; but the *Spaniards* knew better: They knew the Instructions given to our formidable Squadrons; or at least they judged of them from former Experience. They knew our Fleets were directed by the same Councils they have been for several Years past, and therefore they concluded, they were furnished with the same harmless Instructions. We had before sent a Fleet to *Carthagena*, where it lay peaceably for several Months, an Overmatch for *Spain*, but an unequal Match for the Worms and Climate. We had before sent a Fleet to *Gibraltar*, when it was actually besieged by the *Spaniards*; but that Fleet was not to attack or annoy them: No, it was so civil as to open to Right and Left, and let Provisions pass through for the Enemy's besieging Army: Nay, it seems, they had Instructions not even to protect our Trade; for some of our Merchant-Ships were taken under their very Nose.

'Our Fleets sent out last Summer, my Lords, now appear to have had the same sort of Instructions. We may judge of the Instructions given to that sent to the *West-Indies*, from an accident that happened. One blunt *English* Captain that was sent out upon a Cruise, imagining that his Country was not put to the Expence of sending out Fleets to do nothing, happened to meet with a *Spanish* Register-Ship, which he took and brought into *Jamaica*, as a lawful Prize; but the Commodore knew the Secret: He knew we were not to take, but in the most humble Manner to sue for Satisfaction and Justice; and therefore he ordered the Captain not only to set his Prize at liberty, but to convoy her back, with great Respect, to the Latitude in which he took her. Our Squadron sent to the *Mediterranean* could have no warlike Instructions; because they could do no harm to *Spain*, unless it had been to make Prize of some of their Fishing-Boats,

or

or Coasting-Barks: They had no Land-Forces on board, nor were provided with any Thing proper for annoying any *Spanish* Town or Village upon the Sea Coast. None of our Fleets therefore could give the least Weight to our Negotiations: They could serve for nothing, but to confirm the *Spaniards* in the contemptible Opinion they have long entertained of us; and the Consequence we find is agreeable. We have obtained no Satisfaction for the many Indignities that have been put upon us: It does not appear that we ever asked for it. We have obtained no Reparation for our Losses, but what was before agreed to by *Spain*, or what one Part of our own People must make to the other. And we have obtained no Security for our Trade or Navigation: That we have left entirely to our Plenipotentiaries; and they are such Plenipotentiaries, as, I believe, no Nation in the World would have trusted with an Affair of such Consequence; for I do not know that either of them has one Shilling's worth Estate in any Part of his Majesty's Dominions, to answer for any Malversations or Breaches of Faith they may be guilty of.

'I am surprized any Lord should imagine, we have got as ample Satisfaction as we could insist on. My Lords, the Word *Satisfaction* ought not to be mentioned by any one that talks in favour of this Convention: We have got none. Has *Spain* agreed to punish or deliver up any one of its Governors or Captains, that have so cruelly used our Seamen? This alone can be called Satisfaction; and this we were afraid to ask. We have not so much as got, by this Convention, any Reparation for our Losses; and yet we have by this Convention given the *Spaniards* a general Release. My Lords, I shall shew that we have got no Reparation, but what *Spain* had before agreed to give, or what one Part of our own People must make to the other; and in order to do this, I must examine the just Demands, which, 'tis said, *Spain* had upon us. The only Demands I ever heard of are, that which relates to the Ships we took from them in the *Mediterranean* in 1718; and that which relates to the Ship they call the *Santa Theresa*, which was seized at *Dublin* in 1735. If there are any other, I wish the noble Lords who talk so much in favour of the Convention, would mention and explain them.

'Now, my Lords, with regard to the Ships we took from them in 1718, I must insist upon it, that they were justly taken, and were lawful Prize. But as we, by the Treaty in 1721, agreed to restore them, let us examine the Words of that Treaty, in order to see whether we have not long since complied, as far as we were obliged, with the Terms of that Treaty.

Ann. 12 Geo. II. 1738-9.

Treaty. The Words of the 5th Article of that Treaty are, 'That his *Britannic* Majeſty ſhall cauſe to be reſtored to his 'Catholic Majeſty, all the Ships of the *Spaniſh* Fleet which 'were taken by that of *England*, in the naval Battle fought 'in the Seas of *Sicily* in 1718, with the Guns and other E-'quipage, *in the Condition they are at preſent*, or elſe the 'Value of thoſe that may have been ſold; *at the ſame 'Price that the Purchaſers ſhall have given.*' Theſe are the Words of the Treaty; and in purſuance of this, his Catholic Majeſty ſent Commiſſaries to *Port Mahon*, where all theſe Ships were, except one, for I never heard that any more of them were ſold; and the Ships were accordingly, by his Majeſty's Orders, offer'd to be deliver'd to theſe Commiſſaries, with their Guns and other Equipage, in the Condition they were then in, which was all we were obliged to; but the Commiſſaries refuſed to accept of them, becauſe they were in a decayed Condition, and unfit for Service. Therefore, if theſe Ships were not reſtored, it was the King of *Spain*'s own Fault; for we performed all that was incumbent upon us, by the Treaty of 1721; except as to what related to the Ship that had been ſold, and that Ship having been ſent to *Spain* by thoſe that purchaſed her, after they had fitted her up for Service, at a very great Expence, the *Spaniards* thought fit to ſeize her, by which they gave us a Claim upon them, inſtead of their having any upon us, on account of that Ship; for we were obliged to account for her only at the Price at which ſhe was ſold, whereas, when they ſeized her, ſhe was worth a great deal more.

'From hence it appears, my Lords, that they could have no juſt Demand upon us, on account of any Obligations we laid ourſelves under by the Treaty 1721. And with reſpect to the Ship they called the *Santa Thereſa*, it is well known, that ſhe was one of thoſe many *Britiſh* Ships that have been of late moſt unjuſtly ſeized and confiſcated by the *Spaniards*; and as ſhe happened to be ſent upon a Voyage to *Dublin* by ſome *Spaniſh* Merchants, the former Owner being there at the time, immediately diſcovered her to be his Ship; and he having applied to the Government there, and fully proved his Property, we could not refuſe to do juſtice to our own People in our own Ports; though we have for many Years neglected to obtain Juſtice for them from the *Spaniards*; but if we conſider the Convention, we ſhall find, that the Value of this Ship is not to be included in the 60,000 *l.* Demand, which they make upon us; for, by the ſecond ſeparate Article, this Ship is to be referred to the Plenipotentiaries, and if they ſhould give it againſt us, the Value of her is ſtill to be accounted for, or to be allowed in whole, or in part, as a Compenſation

penſation for the *Britiſh* Ship called *The Succeſs*, the Reſtitution of which is ſtipulated by the ſame Article. Ann. 12 Geo. II 1738-9.

'I hope I have now ſhewn that the *Spaniards* had no juſt Demands upon us; and therefore, I cannot comprehend how any Lord can talk of the mutual Demands that were between the two Nations, My Lords, there were no mutual Demands: The Demands were all of our Side: We had taken great Care they ſhould have no Demands upon us; for to our Chriſtian Patience and long-ſuffering, we added a Chriſtian Sort of Revenge. We heaped Coals of Fire upon their Heads, by returning them many good Offices for many Injuries received; but whatever Chriſtianity may teach with regard to private Life, I am ſure it inculcates no ſuch Doctrines with regard to the Behaviour of Nations or Governments towards one another; and I have good reaſon to believe, that thoſe who have been the chief Authors of our political Tameneſs and Submiſſion, were no way influenced by any Chriſtian Motives.

'I ſhall now, my Lords, conſider the Demands we had upon *Spain*; and here I muſt obſerve, that the Demands of our Merchants for Ships plundered or ſeized by the *Spaniards*, before our Commiſſaries returned from *Spain*, which is three or four Years ſince, amounted to above 400,000 *l.* which Sum was reckoned as the Value of what was taken or plundered at prime Coſt; for if our Merchants had valued it at what they might have ſold the Cargoes for at Market, it would have amounted to above 500,000 *l.* beſides the Damages they ſuffered by the Interruption of their Trade, raiſing the Premiums upon Inſurance, and loſs of Ships, two of which we had an Account of from the Gentlemen that were examined at our Bar, beſides many others that were never heard of; ſome of which, there is great reaſon to ſuſpect, were taken by *Spaniſh Guarda Coſta's*, and the Ships, with every living Soul on board, ſent to the bottom of the Sea, after thoſe Pirates had gutted them of all they thought fit for their purpoſe. Therefore, the Amount of our real Damages, and conſequently of our real Demands upon *Spain*, at the time our Commiſſaries left that Kingdom, was at leaſt 500,000 *l.* Sterling; and as the *Spaniards* have taken and plundered a great many of our Ships ſince that time, our Demands upon them for Damages, without reckoning Coſts, muſt have amounted to a great deal above 500,000 *l.* at the Time we began to negotiate this Convention; for if to this we ſhould add our Coſts, I mean the extraordinary Expence the Nation has been put to by their obſtinate Refuſal of Juſtice, our Demands upon them at that time, would amount, I believe, to at leaſt a Million Sterling, without one Shilling's

Ann. 12 Geo. II. 1738-9.

Worth of a juſt Demand upon their Side; and this whole Demand we have, by this Convention, releaſed, for the Sum of 27,000 *l.* which is leſs than the King of *Spain* himſelf had allowed (before this Convention was thought of) to be juſtly due to us, as I ſhall preſently make appear.

'My Lords, the Value put by our Commiſſaries on the Demands of our Merchants, is what I have not the leaſt Regard to. They ſeem to have been *Spaniſh*, and not *Engliſh* Commiſſaries. 'Tis true, they reduced the Demands of our Merchants to 200,000 *l.* but they had not the leaſt Reaſon for what they did. One of them that was examined at our Bar, could not give the leaſt Shadow of Reaſon for making any Reduction, and much leſs for making ſuch an extraordinary Reduction. From what he ſaid, we may judge how they lumped Things in Favour of *Spain*. He told us, that for about twenty Sloops, that even they allowed to have been unjuſtly ſeized, they lumped them at 100 *l.* a-piece, though every one knows, that no Sloop, proper for ſailing on Seas where Tornado's, Tempeſts, and Hurricanes are frequent, can be built and fitted out for 100 *l.* without reckoning the Seamens Cloaths, Proviſions, and other Things that muſt be on board. From hence we may ſee, they were reſolved to reduce the Demands of their Countrymen as low as poſſible. From whom they could have Inſtructions for this, I cannot imagine: I am ſure it was not from his Majeſty; and if they received ſuch Inſtructions from any of his Miniſters, they ought not to have complied with them: It was betraying his Majeſty, and ſacrificing the Intereſt of his People, to the ſelfiſh Views of ſome of his Miniſters.

'But even this Sum of 200,000 *l.* the Court of *Spain* was reſolved, it ſeems, not to make good; and as our Miniſters were, it ſeems, reſolved to have a Treaty at any Rate, it became neceſſary for them to reduce this Sum: For this purpoſe, we have allowed of a Demand of 60,000 *l.* which the *Spaniards* made upon us, though they had not, as I have ſhewn, the leaſt Pretence for making ſuch a Demand. This reduced the 200,000 *l.* to 140,000 *l.* Well, but even this Sum of 140,000 *l.* the Court of *Spain* refuſed to pay; therefore we allowed them to deduct 45,000 *l.* for prompt Payment. Whatever other Lords may think, I muſt think, an Allowance of near one third of the Sum due, is a pretty extraordinary Allowance for prompt Payment; eſpecially, when that which is called prompt Papment, is only a promiſe to pay in four Months. I have often, my Lords, heard of an Allowance made for prompt Payment, when Money is paid before it is due by Law or Cuſtom; but I never heard that the Creditor made an Allowance for prompt Payment when he

he gave his Debtor four Months Forbearance: The Allowance is then generally of the other Side. This was the Case between *Spain* and us. The Money was due, and immediately payable both by Law and Custom; therefore they should have made us an Allowance for Forbearance, instead of our making them an allowance for prompt Payment. What Necessity, what Obligation, could we lie under to accept of Assignments upon his Catholic Majesty's Revenues in *New-Spain?* It would have been ridiculous to accept of any such; because we knew, by Experience, they were good for nothing. Ann. 12 Geo. II. 1738-9.

'However, my Lords, every Pretence was to be admitted, that could be made, for diminishing the Sum due to us from *Spain:* Therefore this Allowance for prompt Payment was admitted of, and this reduced the 140,000 *l.* to 95,000 *l.* But still this Sum was too large: The Court of *Spain* would not so much as promise to pay even this Sum; therefore, what our Negotiators had already allowed, for what I know, prompted them to set up a most unjust Claim of 68,000 *l.* against our *South-Sea* Company; and though the *Spaniards* are, by their own Acknowledgment, indebted to our *South-Sea* Company in a much larger Sum, yet it was agreed, that this 68,000 *l.* should be immediately paid by the Company to the King of *Spain*; and this immediate Payment was made the fundamental Article of the Convention; for the King of *Spain*'s Protestation, or Declaration, I must, and I am convinced the Court of *Spain* will, consider as a Condition *sine qua non*; and our agreeing to accept of any Treaty under such a Condition, is the more extraordinary, for that it was done by one who was the Company's Servant, and at that very Time entrusted with the Management of their Affairs at that Court.

'We may now see, my Lords, what Reparation the King of *Spain* has, by this Convention, agreed to make us. He has agreed to make a stipulated Payment of 95,000 *l.* to us in four Months, provided our *South-Sea* Company make an immediate Present to him of 68,000 *l.* so that he is to pay to us but 27,000 *l.* out of his own Pocket, which is a less Sum than he had acknowledged to be due to us, before this Convention was thought of; because, before this Convention was thought of, he had acknowledged, that the five Ships, mentioned in the 4th Article, were unjustly seized, and had actually sent Orders to *New-Spain* for their Restitution; and the value of these five Ships will, I am sure, amount to more than 27,000 *l.* Nay, if in pursuance of these Orders they have been restored, which, indeed, I believe, we have no Reason to apprehend, I do not know but we may be brought 4 or 5000 *l.* in Debt; for by that Article, the whole, or any

Ann. 12 Geo. II. 1738-9.

any Part of them, that ſhall appear to have been reſtored, is to be repaid by us.

'Let us now ſee, my Lords, what Reparation we have obtained, by this Convention. Our plundered Merchants are, indeed, to have 155,000*l.* divided among them, the Salaries, Fees and Perquiſites of thoſe who are to make the Diviſion, being firſt deducted; and this they are to have as a full Satisfaction for their Damages, which amount to more than 500,000*l.* But how is this 155,000*l.* to be raiſed? Why 60,000*l.* of it, muſt be raiſed by a Tax upon our own People, or by making a new Encroachment upon our ſinking Fund; 68,000*l.* another Part of it, is to be raiſed by, or rather taken by Violence from our own *South-Sea* Company; and the remaining 27,000*l.* is to be paid to us by the King of *Spain*, which is a leſs Sum than he had acknowledged to be due to us, before this Convention was thought of. I beg pardon, my Lords, for detaining you ſo long upon this Head; but as this Treaty ſeems to have been artfully calculated for palming a ſham Reparation upon the Nation, I was obliged to examine it to the bottom, in order to detect the Artifices that have been made uſe of for covering the Deceit.

'Now, my Lords, with regard to our future Security, we have been ſo negligent of it in this preliminary Treaty, that we have not ſo much as obtained from the *Spaniards* a Suſpenſion of their wonted Depredations. Where *Spain* is to be a Gainer by a Suſpenſion, there it is expreſsly ſtipulated; but where we are to be Gainers, it is entirely neglected. We have promiſed to ſuſpend all Fortifications and Improvements in *Georgia* and *Carolina*; but *Spain* has not promiſed to ſuſpend ſearching our Ships, and confiſcating them upon frivolous Pretences. For this Neglect, a learned Lord has found out a moſt ingenious Excuſe: He has told us, that if we had ſtipulated any ſuch Suſpenſion, it would have imported an Acknowledgment of their Right to ſearch and confiſcate. How this may be in Law, I do not know; but I do not think it agreeable to Common Senſe. I cannot think, that my exacting a Promiſe from a Man to ſuſpend doing me an Injury, is the leaſt Acknowledgment, that he has a Right to do me an Injury. But if a Suſpenſion could be any way underſtood to be an Acknowledgment of their Right to ſearch and confiſcate our Ships, the allowing them to continue the Practice, muſt be a more direct, and, I am ſure, a more hurtful ſort of Acknowledgment. Therefore, I muſt look upon this Neglect in the preliminary Convention, as a bad Omen, with reſpect to the definitive Treaty. The Time, it is true, in which this

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definitive Treaty is to be ſettled, is but eight Months: They cannot, perhaps, do us any great Injury in that Time; but that Term may be renewed, may be often renewed, I believe it will be renewed from Time to Time, as long as ſome People have any Influence in our Councils; for I do not believe it will ever be in their Power to make the *Spaniards* give up any Right they pretend to; and no *Britiſh* Miniſter will ever dare to grant them, by a ſolemn Treaty, a Right to ſearch *Britiſh* Ships on the open Seas, or a Right to preſcribe to his Majeſty's Subjects, what ſort of Goods they ſhall be allow'd to carry in their Ships from one Part of his Majeſty's Dominions to another. For this Reaſon, I do not know, but that our Negotiations for a definitive Treaty may laſt as long as our Negotiations for this Preliminary have continued, which I muſt look on to be at leaſt ten Years; for theſe Renewals or Continuations may be ſafely agreed to, becauſe they will not be much taken notice of, or reſented by the People; and during that whole Time, the *Spaniards* are to continue to exerciſe a moſt unjuſt Encroachment upon us, while we muſt continue to ſuſpend the natural Right we have to fortify and improve our own Dominions. Ann. 12 Geo. II. 1738-9.

'As for the Pretence, my Lords, that the *Spaniards* have given up their Right to ſearch or confiſcate our Ships, and have acknowledged themſelves in the Wrong, by agreeing to pay us Damages and Coſts, I have already ſhewn that they have not agreed, by this Treaty, to pay us any Damages, but what they had before acknowledged to be due; and I was ſurprized to hear a learned Lord, who certainly underſtands what is meant by Damages and Coſts, ſo far miſtake the Matter, as to ſay, the *Spaniards* have agreed to pay Coſts. Our Coſts are the Expences the Nation was put to in Warlike Preparations laſt Summer, which the *Spaniards* have not agreed to pay one Shilling of; for whether thoſe Preparations are to be called Warlike Meaſures or not, they certainly coſt us a great deal of Money; and in all Nations but this, they look mighty like War: Even in this, till within theſe twenty Years, they have generally been the certain Harbinger of War; and will be ſo again, as ſoon as we begin to have a Regard to our Character Abroad, or our Oeconomy at Home

'My Lords, I have this Day, and upon this Occaſion, heard a Diſtinction made by a learned Lord, between a Right, and the Enjoyment of a Right. What the noble Lord meant by his Diſtinction, I cannot comprehend: for it is a Diſtinction which, I confeſs, I do not underſtand. I am ſure no Right is good for any thing unleſs it be enjoy'd, nor

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Ann. 12 Geo. II. 1738-9.

farther than it is enjoy'd; and I muſt think, that whilſt a Man prevents my enjoying my Right, he, for that time at leaſt, takes from me the Right itſelf. But after the noble Lord had made this incomprehenſible Diſtinction, I was amazed to hear him ſay, there is no Matter of Right now in diſpute between *Spain* and us. Do not they ſay, they have a Right to ſearch our Ships on the open Seas? It does not ſignify to us what frivolous Pretence they found that Right upon: They do pretend to it, they have enjoyed it, by our Tameneſs, for too many Years. Do not they ſay, they have a Right to ſeize and confiſcate our Ships, if they find any Gold, Silver, Logwood, Cocoa, or other Goods on board, which they are pleaſed to call the Produce of their Settlements in *America?* It ſignifies nothing to us, what Reaſon they give for ſetting up ſuch a Claim: They do pretend to it, and have actually exerciſed this Right, even ſince this Treaty was firſt ſet on Foot; for they ſeized Capt. *Vaughan*'s Ship on the 29th of *June* laſt, and have ſince condemned her, for no other Reaſon, but becauſe of her having ſome Goods on board, which, they ſaid, was the Produce of their Settlements, though it appear'd that he had taken them in at *Jamaica*. Theſe, my Lords, are Matters of Right, which, I hope, our Miniſters diſpute with them: I hope no *Britiſh* Miniſter will ever dare to yield to them in either of theſe Reſpects. And, on the other hand, do not we ſay, we have a Right to a free Navigation in the *American* Seas? Do not the *Spaniards* deny we have any ſuch Right? Do not they expreſsly ſay, we have no Right to any Navigation in thoſe Seas, but ſuch as they have granted us by Treaty? And that, they ſay, is only to and from our own Colonies, whilſt our Ships ſteer a direct Courſe; which they, as Sovereigns of the *American* Seas, are to be the only Judges of. This is the Meaning they put on the 8th Article of the Treaty of 1670, which every Man muſt be convinced of, that has read M. *de la Quadra*'s Letter to Mr. *Keene*, of the 10th of *February* was a Twelvemonth: His Words are, after having given an Abſtract of that Article, — 'That theſe Words plainly ſhew 'the little Grounds of the Propoſition you have advanced, 'that his *Britannic* Majeſty's Subjects have a Right to a free 'Commerce and Navigation in the *Weſt-Indies*, the only 'Navigation that can be claimed by them, being that to their 'Iſlands and Plantations, *whilſt they ſteer a due Courſe*; 'and their Ships are *liable to Seizure and Confiſcation*, if it be 'proved that they have altered their Rout, without Neceſ-'ſity, in order to draw near to the *Spaniſh* Coaſts.——' This, 'tis true, my Lords, is a moſt falſe and ridiculous Interpretation of that Article; but this they have been prompted

prompted to inſiſt on by our Tameneſs, and by our puzzling the Caſe with our Negotiations. Ann. 12 Geo. II. 1738-9.

'From hence we muſt ſee, my Lords, that there are Rights of great Importance in Diſpute between *Spain* and us. They pretend to Rights which we can never admit of, as long as we poſſeſs a Foot of Ground, or have any Trade in the *Weſt-Indies*; and they deny us a Right that every free State in the World has a juſt Title to by the Laws of Nature and Nations; and I will venture to propheſy, that, without a War, they will never give up the former, nor acknowledge the latter. We may negotiate as long as we pleaſe: We may conclude Sham Treaties and Conventions, as temporary Expedients for amuſing our own People; but, from our late Conduct, they have conceived ſuch a contemptible Opinion of us, that we muſt now fight them before we can expect any Juſtice or Satisfaction from them. This muſt at laſt be the Caſe; but when this happens, it will not be thoſe who then adviſe a War, but thoſe, who by their puſillanimous Conduct have made it neceſſary, that ought to be blamed for having led the Nation into a War. If we had properly reſented the firſt Inſult, and had peremptorily inſiſted upon full Satisfaction, we might have obtained it by peaceable Means; but now I'm afraid it is become impoſſible: We muſt go to War before we can expect either Satisfaction or Quiet; and when we do, I hope it will be conducted with Wiſdom and Vigour; for if we ſhew the ſame irreſolute Conduct in War, we have lately done in Peace, if we ſeem afraid of hurting the Enemy too much, like a ſenſeleſs and ſpiritleſs Animal fallen into a Mire, the longer we ſtruggle, the deeper we ſhall ſink, and may, at laſt, come to be ſuffocated in the Mud: Whereas, by a bold and vigorous Puſh at firſt, we might have got through the Quagmire, and thrown ourſelves ſafe upon the oppoſite Shore.

'Having now ſhewn, that our Right to a free Navigation in the *American* Seas, is one of thoſe Rights that is diſputed by *Spain*, we muſt from thence conclude, it is one of thoſe Rights, that is by this Convention, to be regulated by Plenipotentiaries. That is to ſay, my Lords, it is to be given up by our Plenipotentiaries; for if it be regulated, it muſt be deſtroyed: Every Regulation muſt be a Reſtraint, and that which is put under a Reſtraint, can in no ſenſe be ſaid to be free. The Right *Spain* pretends to, of ſearching our Ships in the open Seas; and the Right they pretend to, of preſcribing to us what ſort of Goods we may carry in our Ships, from one Part of the *Britiſh* Dominions to another, are Rights which, I hope, are now in Diſpute between *Spain* and us; and are therefore Rights that are referred to be regulated

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Ann. 12 Geo. II. 1738-9.

by our Plenipotentiaries. My Lords, if we agree to regulate them, we grant them; and if we grant them under any Regulations, we can no longer pretend to a free Navigation or Commerce in the *American* Seas: Therefore, my Lords, I muſt look upon this Article as an artful, or indirect Surrender, (I ſhall not give it the Name it deſerves) of the moſt undoubted, and the moſt valuable Rights of the People of *Great Britain*. The learned Prelate who ſpoke ſome time ago, and the learned Lord who ſpoke ſince, have, indeed, upon this Subject, ſhewn themſelves excellent Advocates for *Spain*: I hope the *Spaniſh* Plenipotentiaries will neither have ſo much Eloquence, nor ſo many Arguments; for, if they have, as I have no very great Opinion of the Capacity or Qualifications of our own, I am afraid we ſhall come off with the worſt. But their Arguments in favour of *Spain* have been ſo fully anſwered by the noble Duke that ſpoke after the Reverend Prelate, and the noble Lord that ſpoke laſt but one, that I need not, if I could, add any thing to the Anſwers they have made; therefore, I ſhall only wiſh, that our Plenipotentiaries had been here to have heard them, in order that they might have learned how to defend the Cauſe of their Country againſt the moſt artful Arguments that can be made uſe of by its Enemies.

'The only other Right now in diſpute between *Spain* and us, that ſeems to have been taken the leaſt Notice of in our late Negotiations, is our Right to *Georgia* and *Carolina*. This, the noble Lord who ſpoke laſt but two, has repreſented as a Diſpute about Limits only; though every one knows, the *Spaniards* have lately begun to diſpute our Right to *Georgia*, and even to a great Part of *Carolina*, particularly our Right to the former, which they ſo peremptorily deny, that they would not allow the Name to be ſo much as mentioned in this Convention; and as we have lately given that Country the Name of *Georgia*, not only by Charter, but by Authority of Parliament, our accepting of an Article about the Regulation of Limits, without mentioning our frontier Province, will, I am afraid, be conſidered by the *Spaniards* as a Surrender of that Province. We may, if we will, give up *Georgia*; we may give up *South-Carolina*, and yet ſay, that the only Diſpute between *Spain* and us was about Limits; becauſe the *Spaniards* inſiſted, that the River *Podie*, upon the Borders of *North-Carolina*, was the proper Limit between *Florida* and *Carolina*; whereas we inſiſted, that the River *Alatamaha* was the proper Limit. This, I ſay, might be called a Diſpute only about Limits; but, if we ſhould give up all the Country lying between theſe two Rivers

Rivers, if we do not give up a Right, I will ſay, we give up a very valuable Poſſeſſion. Ann. 12 Geo. II. 1738-9.

'I have now ſhewn, my Lords, that by this Convention we have obtained no Reparation; and that, ſo far from obtaining future Security, we ſeem to have, in ſome Meaſure, given up every thing, upon which our future Security can be founded. What, then, could induce us to accept of ſuch an unſatisfactory, ſuch a diſhonourable Preliminary? Which is a Queſtion that leads me of courſe to conſider the preſent Circumſtances of *Europe* in general, and of this Nation in particular. This, my Lords, I confeſs, is a Subject which I touch on with Reluctance; becauſe, I am ſure it can afford no great Comfort, either to the Speaker, or to the Hearer. The State of our Affairs, both at Home and Abroad, I ſhall grant, is diſmal enough; but I am ſorry to hear it made more diſmal than it really is, for the ſake of juſtifying an inglorious Treaty, or a daſtardly Submiſſion to the moſt provoking Inſults. The Affairs of *Europe* are, indeed, at preſent, in a Situation not very favourable for this Kingdom; but what is this owing to? It is owing, my Lords, to a ridiculous Notion we took up about fifteen Years ago, of the overgrown Power of the Houſe of *Auſtria:* A Notion that could be inſtilled into us by nothing but *French* Councils; and who were the chief Propagators of this pernicious Notion, we may well remember. This Notion produced the Treaty of *Hanover:* A Treaty calculated for diſſolving an Alliance, which we ought to have cultivated and ſtrengthened with all our Art; becauſe it could be prejudicial to no State in *Europe* but *France* alone. And this Treaty of *Hanover* drove us into that long Chain of Negotiations, Treaties and Expence, by which we not only re united the two Branches of the Houſe of *Bourbon*, but contributed, at our own Expence, to aggrandize them. Our Fleets were employed to give Principalities to one of the Branches of that Houſe: And now we are told, you muſt not vindicate your Rights, or your Honour, againſt one of theſe Branches, becauſe it may be aſſiſted by the other.

'My Lords, if this Argument proves any thing, it proves too much; if we dare not revenge the Affronts that are put upon us, nor repel the moſt unjuſt Encroachments, for Fear of *France*, we have nothing to do but lie down and die. It ſignifies nothing to put it off by Patch-work, and Expedients, for eight Months longer. But this, my Lords, has been our Method for ſeveral Years. Like Builders, that build a Houſe to laſt only for the Term of their Leaſe, they build of rotten Materials; and if they can, by Patch-work, keep it up while they are in it, they do not care if it tumbles

Ann. 12 Geo. II. 1738-9.

upon, and cruſhes the Landlord under its Ruins. A Miniſter that has no Credit or Character Abroad, nor any Authority or Affection among the People at Home, muſt have Recourſe to Patch-work and Expedients. He can have no Materials, but the rotten Hearts of Sycophants and Time-ſervers; and theſe muſt be kept together, at a great Expence, by temporary Expedients: He neither can, nor will, think of building a ſolid and laſting Fabrick; but, I hope the Nation will never allow him to build for them; or if they ſhould be ſo unwiſe, as to allow him to erect a deceitful Fabrick, that they will pull it about his Ears, before he has Time to encloſe them; for if they ſhould allow him to go on, he may ſo environ them with Ruins, that it will hardly be poſſible for them to find their Way out.

'I cannot eaſily believe, my Lords, that *France* will aſſiſt *Spain* in putting a Yoke upon us, that may afterwards ſerve as a Precedent for putting the ſame Yoke upon themſelves. The Court of *France* is ſeldom ſo ſhort in its Politics. I am rather inclined to think, that the Court of *France* will either endeavour to prevail on us to accept of ſham Treaties, and a precarious Security, or, in caſe of a War, that they will endeavour to prevent our bringing it to a ſpeedy Iſſue, by a vigorous Proſecution. I hope we ſhall take care not to be directed or dup'd by *French* Councils in either of theſe Caſes; for both will be deſtructive to this Nation, both will ſerve the Ends of *France:* A precarious Peace, or a languid War, will keep up a Contention between *Spain* and us; and ſuch a Contention will contribute greatly to eſtabliſh the Trade of *France* upon the Ruins of the Trade of this Nation. But ſuppoſe theſe two Nations ſhould unite againſt us, and that we have negotiated ourſelves out of every Alliance that can give us any Aſſiſtance; yet ſtill we muſt do the beſt we can. By a wiſe and vigorous Conduct we might make both of them repent of their Undertaking. They both depend greatly upon their Trade and Territories in the *Weſt-Indies*, where we may be Maſters if we will; and though they have both of late got great Additions of Power by our Blunders, yet they muſt not pretend to preſcribe to all the Powers of *Europe*. Such an Attempt would bring back to us thoſe Allies, whom we have detach'd by our late Conduct; and in that Caſe, a Confederacy might ſoon be formed, that would be able to preſcribe Laws both to *France* and *Spain*, inſtead of receiving Laws from them. The preſent Aſpect of Affairs in *Europe* is, 'tis true, diſmal enough; but it is not yet ſo diſmal as it was in the beginning of the Year 1702; and every one knows the glorious Succeſs of the Confederacy that was then formed againſt *France* and *Spain*. But before we can expect

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any Succeſs either in War, or in forming Confederacies, we must take Care to unite our People amongſt themſelves, and to eſtabliſh among them a Confidence in the Conduct of thoſe that govern them; which, I am afraid, cannot be done by thoſe who have ſpread Diſunion and Diſtruſt, not only amongſt our Allies abroad, but amongſt our People at Home. Ann. 12 Geo. II. 1738-9.

'Our Trade with *Spain*, my Lords, was once a profitable Trade to this Nation: but, as *France* has lately got much into that Trade, it is not near ſo profitable to us as it was. If it were not for our Plantations, I believe we ſhould be no great Gainers upon the Balance. We ſhall manage the War but ill, if we do not make more by a War with *Spain*, than we can do by a precarious and interrupted Trade. But if it were otherwiſe, we cannot preſerve our Trade with that Nation, or with any Nation, but by preſerving their Eſteem and their Friendſhip; and theſe we muſt loſe, if we ſubmit tamely to their Inſults. Theſe Walls, my Lords, ought to put us in mind of the Methods by which our Anceſtors preſerved the Trade, and vindicated the Honour of the Nation. Theſe ſhew it was not by Negotiation, nor by lumping away the juſt Demands of their Country. I do not know, if there are any hiſtorical Looms now at work, but I am afraid our *Spithead* and *Carthagena* Expeditions would make as bad a Figure in a Piece of Tapeſtry, as they will hereafter do in our Hiſtories.

'But I hope, my Lords, we have no ſuch Looms at work: It would be for the Honour of the Nation, if no Memorandum could be preſerved of ſome of our paſt Tranſactions; for we muſt alter our Meaſures, before we can tranſmit to Poſterity what they can reflect on with Satisfaction or Emulation. If we had taken Example from the Conduct of a Miniſter in a neighbouring Country, our Affairs both at Home and Abroad, would have been in a very different Situation: By encouraging Trade and Manufactures, by Parſimony in public Expence, by not engaging needleſly in any Broils, and by vindicating the Honour of his Country with Reſolution, when there was Occaſion, he has rendered his Country happy, and himſelf glorious. But we have followed contrary Meaſures, and by ſo doing, have brought ourſelves into that Diſtreſs, which is now made the chief Argument for our agreeing to this inglorious Convention.

'However, my Lords, I think the State of our Affairs not yet ſo deſperate, as that it ought to be a prevailing Argument upon this Occaſion. I hope I have ſhewn, that the State of Affairs in *Europe*, is not ſo bad as it has been repreſented; and as to our Domeſtic Affairs, can they improve by ſubmitting to daily Inſults, and to Uſurpations that muſt

Ann. 12 Geo. II. 1738-9.

deſtroy our Trade? In ſuch Circumſtances, can we pay off our Debts, can we preſerve our Sinking Fund? No, my Lords by the Decay of our Trade, our People muſt every Day become poorer, and leſs numerous: This will diminiſh our Conſumption; and this again will of courſe diminiſh the annual Produce of our Taxes: We may, by a more rigorous Collection, keep it up to its old Value for ſome Years; but it will ſoon begin to ſink conſideraby every Year; and this will at laſt annihilate our Sinking Fund. We cannot therefore propoſe to pay off our Debt, unleſs we preſerve our Trade; nor can we pay any Debt, if in time of Peace we muſt be at the Expence of War, which was our Caſe laſt Summer, and may probably be ſo for many Summers to come; for if great Armaments and Military Preparations were neceſſary to procure a Preliminary Convention, ſurely they will be as neceſſary for procuring a definitive Treaty; therefore we muſt have a numerous Army at Land, and formidable Squadrons, I mean in ſhow, my Lords, at Sea, till this Treaty be concluded and ratified, which I am convinced will not be very ſpeedily. In the mean time, as we have ſtipulated no Suſpenſion, our Merchants will be plundered, and our Seamen cruelly uſed by the *Spaniſh Guarda Coſta's*; which will of courſe render our People more and more diſcontented, and at laſt diſaffected. Our People, 'tis true, may become more united; but it will be againſt our eſtabliſhed Government; and in that Caſe, I hope, it will be allowed, that our Domeſtic Affairs would be in a worſe Condition than they are at preſent, and our Government leſs able to carry on a Foreign War, than our preſent Government can be ſuppoſed to be.

'Our Domeſtic Affairs may therefore, my Lords, grow worſe, but they cannot grow better, by our continuing in ſuch a Warlike Peace, as we have continued in for almoſt theſe twenty Years; and we can expect no other ſort of Peace, till we retrieve our Character, and eſtabliſh our Security, which, I think, can now be done no other Way but by a vigorous and well-conducted War. But ſuppoſe, my Lords, the State of Affairs, both at home and abroad, were as diſmal as it has been repreſented by thoſe who have ſpoke in Favour of this Covention, could this be any Reaſon for our ſuing for, or agreeing to ſuch a Treaty? We were in no danger of being attacked by *Spain*: We were not ſo much as threatned with any ſuch Attack: We wanted only Satisfaction and Reparation for paſt Injuries, and Security againſt future: Therefore we had no Shadow of Reaſon for agreeing to any Treaty, that did not give us either the one or the other. By this we have obtained neither: We have abſolutely releaſed

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and given up the former; and we have rendered the latter more precarious than it was before. If we had made no Treaty, no Preliminary, *Spain* could only have continued to ſeize and confiſcate ſuch of our Merchant-ſhips as they could meet with and overcome; and this they may ſtill do, notwithſtanding this Treaty. What would have been the Conſequence? Suppoſe the Nation at preſent abſolutely unable to vindicate its Rights or its Honour by Force of Arms, yet we might have waited with Patience till an Opportunity offered, without being expoſed to ſuffer, in the mean time, more than we are now expoſed to, notwithſtanding this Treaty; and when an Opportunity offered for vindicating our Rights and our Honour by Force of Arms, we could then have inſiſted upon full Reparation for all Loſſes, all Damage, all Expence, which we cannot now do; becauſe, by this Treaty, we have given a general Releaſe. Ann. 12 Geo. II. 1738-9.

'I ſhall agree, my Lords, that this Nation can never long want an Opportunity for Revenge againſt any Nation in *Europe*. This is our Happineſs; but this ought to have been an Argument againſt our granting ſuch a generous Releaſe as we have granted by this Preliminary. Beſides, my Lords, it is an Argument ſome People ought to be aſhamed to mention, if they could be aſhamed of any thing. It is almoſt twenty Years ſince *Spain* ſet up every Claim againſt us, they now pretend to: It is almoſt twenty Years ſince they have been in a continued and uninterrupted Courſe of inſulting the Nation, plundering our Merchants, and maltreating our Seamen; and 'tis ſtrange, that in ſo long a time, we could find no Opportunity for Revenge, againſt a Nation, which no Man will ſay is by itſelf an equal Match for this. My Lords, we have had many Opportunities; but we have neglected them all, or have been prevailed on by *French* Councils, or worſe, to make uſe of none of them. We had one about ſeven Years ſince, which, it is amazing, we neglected; and the fatal Conſequences of that Neglect now begin to appear; but, I'm afraid, they do not yet all appear: If they are not prevented by a change of Meaſures in this Kingdom, they may prove fatal to *Europe*; as well as to *England*; and they cannot be prevented without an infinite Expence to this Nation, for which thoſe who gave Riſe to them, ought, I hope, they will be made to anſwer.

'This ſhews, my Lords, that we ought not to have been ſo ready, I ſhall not ſay raſh, in approving of Treaties or Negotiations, as we have been for ſeveral Years paſt. We ought to approve of no Treaty without maturely conſidering its Terms and its Conſequences, as alſo the Neceſſity there

Ann. 12 Geo. II. 1738-9.

there was for agreeing to it; for as every Treaty is a new National Obligation, no Treaty ought to be agreed to, without ſome Neceſſity for ſo doing. And, I am convinced, that no Man who maturely conſiders the Treaty now before us, either in its Terms, its Conſequences, or the Neceſſity there was for our agreeing to it, will approve of it in any Shape. An immediate War is not the neceſſary Conſequence of our refuſing to approve of it, by putting a Negative upon this Motion. His Majeſty may, nevertheleſs, wait for a more proper Opportunity of declaring War. But if we ſhould, in any Shape, approve of this Treaty, the Demands which we may juſtly make, and fully obtain, in caſe of a ſucceſsful War, will thereby be greatly diminiſhed; therefore the Motion which the noble Lord has been pleaſed to make, will, I hope, be diſagreed to.'

The Lord *Hervey*.

Lord *Hervey*.

'My Lords, the noble Lords who have ſpoke before me, have ſaid ſo much, and have expreſſed their Sentiments ſo clearly, in favour of the Convention, that I cannot propoſe to ſay any thing new, or to ſay any thing better, upon the Subject. I ſhall, therefore, only take notice of ſome Facts, which, I think, have been miſtaken, or miſrepreſented, by thoſe who have ſpoke upon the other Side of the Queſtion; and this I ſhall do without attempting any Turns of Wit, or any thing of what may be call'd Flowers of Rhetoric. If I were capable of making the beſt uſe of ſuch a way of ſpeaking; if I were as great a Wit, and as great an Orator, as ever appeared in the Aſſemblies of the ancient *Greeks* or *Romans*, the Reſpect I have for your Lordſhips, would prevent my making uſe of it in this Houſe; becauſe, ſuch a Method of ſpeaking I take to be fit only for Aſſemblies that are led by their Paſſions, and not governed by their Reaſon.

'Laſt Seſſion of Parliament, my Lords, we ſtrengthened, 'tis true, the Hands of the Crown, and I hope the preſent, and every future Seſſion will do the ſame, when there is the like Occaſion; but we muſt remember, that though we ſtrengthened the Hands of the Crown, yet at the ſame time we recommended peaceable Meaſures; and therefore the Power we then gave to the Crown, was not to be made uſe of in any hoſtile Manner, as long as there were Hopes of obtaining Satisfaction by amicable Means. This was the Intention, this was the Advice of Parliament; and according to this Advice his Majeſty apply'd to the Court of *Spain*, to ſee what could be done by way of Negotiation. At the ſame time he made ſo far Uſe of the Powers granted him by Parliament,

liament, as to fit out ſeveral Squadrons, and ſend them to their proper Stations, in order to convince the Court of *Spain*, that we were ready to revenge, in caſe they ſhould refuſe, or unreaſonably delay giving us Satisfaction; but it would have been contrary to the Advice of Parliament, to have ſent any of thoſe Fleets out, with Inſtructions to begin Hoſtilities. Such Inſtructions might have been eaſily and ſpeedily ſent, as ſoon as his Majeſty had found that nothing elſe would prevail; but to have given them ſuch Inſtructions, before he had made the leaſt Application for procuring Juſtice and Satisfaction in a peaceable Way, would have been directly contrary to what was recommended to him by both Houſes, laſt Seſſion of Parliament. Ann. 12 Geo. II. 1738-9.

'The Fleet that was ſent to the *Mediterranean*, my Lords, was properly and ſufficiently provided for anſwering all the Ends that were intended by it, even though a War had broke out between the two Nations; for, even in that Caſe, it would have been ridiculous in us to have expended our Strength, and put our ſelves to a great Charge, in attacking any of the *Spaniſh* Dominions in *Europe*, where we could do them but little Prejudice, and could reap no great Advantage to our ſelves. That Fleet, therefore, could only be deſigned for protecting our own Poſſeſſions and Trade in that Part of the World, for intercepting any *Spaniſh* Ships that ſhould happen to eſcape our Fleet in the *Weſt-Indies*, and for preventing any Supplies being ſent from *Old Spain* to any of their Colonies, or Plantations in *America*; and for anſwering all theſe Purpoſes, the Fleet that was ſent to the Coaſts of *Spain*, was ſufficiently provided with every thing that was neceſſary.

'The *Weſt Indies*, my Lords, is the Part of the World, where, in caſe of a War, we could do the moſt Harm to *Spain*, and the moſt Good to our ſelves; and there, if we can but prevent any Supplies being ſent from *Old Spain*, we ſhall ſtand in need of no Land-Forces being ſent from hence. Our own Colonies, upon the Continent and in the Iſlands of *America*, would ſoon furniſh us with Land Forces ſufficient for attacking *Spain* by Land in that Quarter, if we ſend a Squadron of Men of War ſufficient to protect them at Sea. But ſuppoſe it ſhould be neceſſary for us to ſend Land Forces from hence; it would not be proper, becauſe of the Climate, to ſend them thither, till we were juſt ready to enter upon Action, which could not be our Caſe the Beginning of laſt Summer; becauſe his Majeſty was to try what could be done by peaceable Means, before commencing Hoſtilities, either in the *Weſt-Indies* or in *Europe*. For this reaſon, it was neceſſary to ſend a Squadron to the *Weſt-*

Ann. 12 Geo. II. 1738-9.

Indies for protecting our Trade in the mean time, and in order to take Land Forces on Board, as ſoon as any could be raiſed in our Colonies, in caſe a War had become neceſſary; but it would have been contrary to the Plan that was preſcribed by Parliament, to have immediately begun Hoſtilities; and therefore it was wrong to ſeize the *Spaniſh* Regiſter-Ship, which the noble Lord was pleaſed to mention, and it was right in our Commodore to order her being reſtored.

'My Lords, as the Court of *Spain* could not be ignorant of the Advice that was given to his Majeſty by his Parliament laſt Seſſion, and as his Majeſty, to our Happineſs and his own Honour, has always made the Advice of his Parliament the Rule of his Actions, they could not but ſuppoſe, that the Squadrons we ſent out were inſtructed not to begin Hoſtilities, till farther Orders; but ſuch Orders, they knew, might ſoon be ſent; ſuch Orders, they knew, would be ſent immediately, upon their refuſing to give Ear to a friendly Accommodation of thoſe Diſputes that ſubſiſted between the two Nations. This they were ſenſible of, and therefore, they not only appeared williug to do us Juſtice, but have granted all that we could expect by a ſucceſsful War; for even, in caſe of a ſucceſsful War, we muſt at laſt have agreed to Preliminaries, before Peace could be reſtored, and by thoſe Preliminaries we could expect no more than a full Satisfaction for our Loſſes, and an Agreement to have all other Diſputes adjuſted by a definitive Treaty.

'But, my Lords, before I enter into the Conſideration of what we have got by Peace, I muſt examine a little into what we could expect, or might have loſt, by War; for though I have as great a Confidence in the Strength and Courage of my Country, as any Man ought to have, yet I am not ſo ſanguine, as to think, that we have Victory chained to our Chariot-Wheel, or that we muſt be ſucceſsful in every War we engage in; and therefore in all Queſtions relating to War or Peace, I think we ought to conſider what we may loſe, as well as what we may get, by a War. By a War with *Spain*, my Lords, we could not expect to make much by Privateering, or by taking and making Prize of their Ships at Sea. In caſe of a War with this Nation, they would ſend no Ships to Sea, but ſmall, light Frigates, by way of Privateers, for intercepting ſuch of our Merchant-ſhips as they found without, or ſtraggling too far from a Convoy; and though by taking ſuch, we might prevent a Loſs and Interruption in Trade, yet we could not expect to reap any great Benefit. Some People may, perhaps, imagine, that great Advantages might be made by our intercepting their Plate Fleets, or the Ships that are employed in their Trade with

with their Settlements in *America*, becauſe none but *Spaniſh* Ships can be employed in that Trade; but even this would be precarious, and might, in ſeveral Shapes, be entirely prevented; for if they ſhould open that Trade to the *French* and *Dutch*, it is what thoſe two Nations would be glad to accept of: and we could not pretend to make Prize of a *French* or *Dutch* Ship, on Account of her being bound to or from the *Spaniſh* Settlements in *America*, no more than we could make Prize of her on Account of her being bound to or from any Port in *Spain*: We could not ſo much as pretend to ſeize any Treaſure or Goods (except contraband) ſhe had on Board, unleſs we could prove, that thoſe Goods, or that Treaſure, actually belonged to the King or Subjects of *Spain*, which it would be impoſſible to do. By this Method, the *Spaniards* might render it impoſſible for us to ſeize any of their Treaſure or Effects, in its Paſſage between *New* and *Old Spain*; and even without opening a Trade to their Settlements, they might almoſt as effectually do the ſame, by means of the *Dutch* Iſland of *Curaſſo*, and the *French* Settlements in *Hiſpaniola*, or the Iſland of *Martinique*; for theſe Places lie ſo near the *Spaniſh* Settlements in *America*, that it would be eaſy for the *Spaniards* to carry their Treaſure and Effects, in their own Ships, to one or other of theſe Places, and to take from thence what Goods or Merchandize they had occaſion for, without running any great Riſk of being intercepted by our Men of War, or Privateers; and from theſe Places the *Spaniſh* Treaſure and Effects might be ſafely brought to *Spain* in *French* or *Dutch* Bottoms, and in the Name of *French* or *Dutch* Merchants.

'Thus it appears, my Lords, that in caſe of a War with *Spain*, we could not expect any great Advantage by Privateering, or by any Prizes we could take at Sea; and at Land we could make no Conqueſts. No Man will pretend that, if it were in our Power, it would be our Intereſt to conquer any of the *Spaniſh* Dominions in *Europe*; at leaſt, I am ſure, it would not be our Intereſt to keep them, nor would it be our Intereſt to give them to any other Power in *Europe*. And as to their Dominions in *America*, or the *Weſt-Indies*, we have expreſsly promiſed, by the Treaty of *Utrecht*, that they ſhall be preſerved whole and entire to the preſent King of *Spain*, and his Succeſſors; ſo that by endeavouring to conquer any of them, we ſhould not only commit a Breach of that Treaty, but likewiſe we ſhould probably raiſe up a Confederacy in *Europe* againſt us; for none of the Powers of *Europe* would chuſe to ſee us Maſters of the Whole, or any Part of the *Spaniſh Weſt-Indies*.

Ann. 12 Geo. II. 1738-9.

'Therefore, my Lords, the only Method by which we could propoſe to get any Advantage, by a War with *Spain*, would be by making Inroads upon, and plundering their Settlements in *America*; and this we ſhould find much more difficult, than it was formerly. Their Sea-ports, and inland Towns in that Part of the World, are now better fortified, and better provided with every thing neceſſary for making a ſtout Defence, than ever they were heretofore; and yet, during the laſt War, I believe it cannot be ſaid, that the Nation got much by any Inroads that were made upon them. The truth is, we never attempted to make any conſiderable Inroads, or any Conqueſts, in that Part of the World, becauſe of the Difficulty and Expence of tranſporting a Land-Army thither; and becauſe we knew the Climate to be very unwholſome for any Land-Army we could ſend thither.

'Having thus ſhewn, my Lords, that we cannot expect any great Advantage from a War with *Spain*, let us next conſider the Dangers we would be expoſed to. I ſhall be far from ſaying, upon this Occaſion, or upon any Occaſion, that we muſt not vindicate our Rights, or our Honour, againſt *France* or *Spain*, for fear of their joining together againſt us; but this I may venture to ſay, that when there is a Probability of their joining together againſt us, at a Time when the Affairs of *Europe* are in ſuch a Situation, that we can form no Confederacy againſt them, at a Time when, if we engage in War, we muſt ſtand ſingle and alone againſt theſe two powerful Nations; I ſay, my Lords, at ſuch a Time it would be prudent in us to ſuſpend our Vengeance, if poſſible, till a more proper Opportunity ſhould offer; and this, I am afraid, is our Caſe at preſent. If *France* ſhould join with *Spain* againſt us, we would be expoſed to many Dangers, and it would be difficult to guard againſt them all. We are, it is true, at preſent, ſuperior to both at Sea; but as *France* has great Numbers of Seamen, they would ſoon get Ships of War, if they were to be at no Expence in defending themſelves at Land; ſo that they might ſoon rig out a powerful Squadron. On the other hand, as we are liable to be attack'd in ſeveral Parts of the World, we muſt divide our Naval Force: We muſt ſend Squadrons to different Points of the Compaſs, and every one of theſe Squadrons muſt be ſuperior to any that *France* and *Spain* can jointly fit out againſt us. As we have the Misfortune to have a Party amongſt ourſelves diſaffected to our preſent Eſtabliſhment, a Party much more conſiderable than ſome People ſeem willing to believe, we muſt keep a very powerful Squadron at home, for preventing its being in the power of our Enemies to invade us. As we have a great Trade and valuable Poſſeſſions in the

the *Mediterranean*, we must keep a powerful Squadron in that Sea, for protecting our Trade and our Poſſeſſions in that Part of the World. And as our Plantations, eſpecially our Sugar Iſlands, are of great Conſequence to our Trade, and lie much expoſed to be invaded, and perhaps deſtroyed, we muſt keep a powerful Squadron in the *American* Seas for their Protection. To which I muſt add, that, conſidering the Alliance lately formed between *France* and *Sweden*, we might, perhaps, find ourſelves under a Neceſſity of ſending a powerful Squadron into the *Baltick*, for the Defence of our Allies, or for preventing an Invaſion from that Quarter. And, notwithſtanding the great Opinion we juſtly have of our Naval Force, and of the Bravery of our Seamen, I hope, I ſhall be excuſed, if I even expreſs ſome Diffidence of our being able to ſend a Squadron to each of theſe Places, ſufficient for encountering the united Force of *France* and *Spain*, perhaps the united Force of *France*, *Spain*, and *Sweden*.

'But ſuppoſe, my Lords, that *France* ſhould remain quiet, and no Way interfere openly in the War between *Spain* and us: Suppoſe, no Power in *Europe* ſhould aſſiſt *Spain* in the War againſt us, yet we could not immediately reduce *Spain* to a Neceſſity of complying with our juſt Demands. The War between us might laſt for ſeveral Years; and while it laſted, the *French* would have a great Advantage over us in every Branch of Trade we are, or can be, concerned in. Though the *Spaniards* have not many Seamen of their own, yet in caſe of a War with this Nation, they would be in no want of Seamen for fitting out a great Number of Privateers againſt us: *French*, *Dutch*, and perhaps ſome of our own Seamen, would engage in their Service for that Purpoſe: ſo that the *Mediterranean*, the *American*, the *Britiſh*, and in ſhort, all the Seas where we have any Trade, would be full of Privateers under *Spaniſh* Colours. This would raiſe the Price of Inſurance upon *Britiſh* Ships higher than upon the Ships of any other Nation in *Europe*; and our Merchant-ſhips would be often put to a great Expence and Delay, by being obliged to wait for a Convoy; which would conſiderably enhance the Charge upon all Manufactures, or Merchandize, ſent by our own Shipping to Foreign Markets, Let us conſider, my Lords, that the *French* already under-ſell us in moſt of the Manufactures we deal in, and that the Freight of *Hamburgh*-Ships, and ſome others, is now cheaper than that of *Britiſh*: If we conſider this, we ſhall eaſily ſee the Conſequence, if we ſhould add a new Charge to the Price of our Manufactures at Foreign Markets, and make it more unſafe, or more expenſive, to

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employ *British* Ships, than thoſe of any other Nation, by engaging in War, when all the other Trading Nations of *Europe* are at Peace: We ſhould export no Manufactures, no Merchandize, at leaſt we ſhould export none in our own Shipping: And what would then become of our Trade and Navigation?

'This, my Lords, would be the Conſequence of a long War between the two Nations, with reſpect to ourſelves; and with reſpect to *Spain*, it would probably be entirely ruined. We might, perhaps, at laſt, force them to do us all the juſtice in their Power; but they would be ſo exhauſted, with the Loſſes and Expences of the War, that it would not be in their Power to make any Satisfaction for the Damage they have already done us, or might do, during the War, and much leſs for the Expences we have been, or might be put to. Now my Lords, though we have, at preſent, good reaſon to be offended with *Spain*, though we have good reaſon to inſiſt upon Satisfaction and Security, yet it is not our Intereſt to weaken the Power of that Nation; we ought rather to ſupport it, as a Balance againſt the Power of *France*; for tho' the Court of *Spain* may, perhaps, be at preſent too much ſwayed by *French* Councils, it will not always, it cannot long be ſo. The Intereſts of *France* and *Spain* are as incompatible, as the Intereſts of *France* and this Kingdom; and therefore, as ſoon as the Court of *Spain* begins to be ſwayed by true *Spaniſh* Counſels, which ſome Accidents may ſoon bring about, we may reaſonably expect to have that Nation for one of our beſt and firmeſt Allies; and whenever that happens, they will gladly give us all the Satisfaction and Security we can deſire, in order to gain our Friendſhip, and to reſtore a mutual Confidence between the two Nations.

'Both the Circumſtances of *Europe*, and the Circumſtances of *Spain*, are now, my Lords, very different from what they were in the Reign of Queen *Elizabeth*, or in the Time of *Oliver Cromwell*. In Queen *Elizabeth*'s Reign, *Spain* was the only formidable Power in *Europe*, and we had as much reaſon, as any other of her Neighbours, to endeavour to reduce her Power. For this Purpoſe, Queen *Elizabeth* took the wiſeſt Courſe that could be taken, by encouraging and ſupporting the Civil War in the *Netherlands*, by which Means, ſhe at laſt enabled the *ſeven United Provinces* to throw off the Yoke of *Spain*; and the whole Power of *Spain* being applied towards ſupporting their Dominion over the *Netherlands*, they could neither ſpare Money for fortifying their Settlements in *America*, nor could they ſend any regular Troops thither for defending them; ſo that even

even our private Adventurers had great Succeſs, and often got rich Booties by Privateering, and by Incurſions upon thoſe Settlements; for, as there was no good Correſpondence between *France* and *Spain*, and an open War between *Spain* and *Holland*, the *Spaniards* could not make uſe either of *Dutch* or *French* Veſſels for carrying on their Trade with their Settlements in *America*; and beſide, as the *French* were then involved in Civil Wars, they durſt not venture to diſoblige *England*, by aſſiſting *Spain*, either openly, or by underhand Dealings. Ann. 12 Geo. II. 1738-9.

'In *Oliver Cromwell*'s Time, my Lords, we know that the *Spaniards* were engaged in a heavy War with *France*, which rendered them unable to provide for the Security of their Trade and Poſſeſſions in *America*; and though, by our taking part with *France* in that War, we got the Iſland of *Jamaica*, which was a valuable Acquiſition, yet I muſt think, it would have been lucky for this Nation, if *Oliver* had joined with *Spain* againſt *France*, inſtead of joining with *France* againſt *Spain*; for it was his fatal Union with *France*, that laid the Foundation of the exceſſive Power of that Kingdom, which has ſince coſt this Nation ſo much Blood, and ſo many Millions. And now, my Lords, with regard to both theſe Wars, I muſt obſerve, that notwithſtanding our great Succeſſes againſt *Spain* in Queen *Elizabeth*'s Reign, notwithſtanding our great Succeſſes againſt *Spain* in *Oliver*'s Time, yet that Nation was not eaſily or ſoon reduced to comply with ſuch Terms as we thought reaſonable; for both Queen *Elizabeth* and *Oliver Cromwell* left the War to be put an end to by their Succeſſors.

'Conſidering, therefore, my Lords, the little Advantage we can reap, and the great Dangers we may be expoſed to, by a War with *Spain*, I muſt think it would be not only unchriſtian, but impolitic in us to do them any real Injuries, or to inſiſt upon unreaſonable Terms for accommodating thoſe Differences, that muſt unavoidably, ſometimes, ariſe between the two Nations. I ſhall not ſay, that either the Precepts of Chriſtianity, or the Maxims of ſound Politics, oblige us to heap Coals of Fire upon their Heads, by returning Good for Evil; but this I will ſay, that we ought at all Times, and eſpecially the preſent, to be more ready to forgive *Spain* than any other Nation in *Europe*; and conſequently, we ought to inſiſt leſs upon the Point of Honour, and accept of a leſs ample Satisfaction, with regard to any Injuries that may be done us by the *Spaniards*, than with regard to the Injuries we may receive from any other Nation in the World. Even in private Life, a Man would ſooner and more eaſily pardon an Injury done him by a Relation, or old Friend, than

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than an Injury done him by an utter Stranger, or by one with whom he never had, nor ever expected to have, any cordial Friendſhip.

'This, my Lords, leads me, of courſe, to conſider what we have got by the Convention now under our Conſideration; and here, my Lords, I muſt ſay, I am ſurprized to hear it affirmed, that we have got no more by this Convention, than what the King of *Spain* had before allowed to be due. To ſupport this Aſſertion, we have been told, that the *Spaniards* had not one Shilling to demand of us; and that the 95,000 *l.* was not to be paid by them, unleſs our *South-Sea* Company firſt paid them, or made them a Preſent, as it was called, of 68,000 *l.* but both theſe Facts muſt appear to have been very much miſrepreſented. The *Spaniards* certainly made a very great Demand upon us: A Demand that far exceeded 60,000 *l.* They demanded full Reparation for all the Damage we did them in the Year 1718, which, according to their Way of Reckoning, would have amounted to more than ten times 60,000 *l.* for they ſaid, that though his Catholic Majeſty had agreed, by the Treaty in 1721, to accept of Reſtitution of the Ships we had actually taken from him, yet he had not by that, or any other Treaty, given up his Claim for the other Damages we had done him; and that, if he had, he was not obliged to ſtand to it, becauſe we had not complied with the Reſtitution ſtipulated by that Treaty. Whether this Demand was juſt or not, is what I ſhall not take upon me to determine; but it was certainly made, and ſtrongly inſiſted on by *Spain*; and if we got them to agree to reduce it to 60,000 *l.* I muſt think it was prudent in us to allow them, by way of a friendly Accommodation, to deduct that Sum out of what was due to our Merchants, on Account of the Depredations committed by their Subjects on the *American* Seas. 'Tis true, we do not receive this Sum in Ready Money, but, I think, it is more beneficial to us than if we did; becauſe, by allowing it to be deducted, we get free of a Demand which amounted to a great deal more, and which would have been a perpetual Bone of Contention between us and a People with whom we ought, if poſſible, to cultivate a good Correſpondence.

'Now, my Lords, with regard to the 68,000 *l.* claimed by *Spain* from our *South-Sea* Company, I cannot comprehend how any one can imagine, that the Court of *Spain* is reſolved not to pay the 95,000 *l.* ſtipulated by this Convention, unleſs this 68,000 *l.* be firſt paid to them by our Company. I am ſure there is no ſuch Condition in the Convention. Our *South-Sea* Company have nothing to do with the Convention;

tion; all Accounts and Differences between them and the Crown of *Spain* being expreſsly excepted, in that very Article by which the 95,000 *l.* is ſtipulated, and the Company not ſo much as once mentioned in any other Part of the Treaty. Even his Catholic Majeſty's Declaration, or Proteſtation, does not ſubject the Payment of the 95,000 *l.* to any ſuch Condition; for all that was meant by that Proteſtation was, to preſerve to his Catholic Majeſty his Right to ſuſpend the *Aſſiento* Contract, in caſe the Company ſhould fail in performing their Part of that Contract; which Right was eſtabliſhed in his Catholic Majeſty, and his Succeſſors, not only by the very Nature of the Contract itſelf, but by the expreſs Words of the Concluſion or Ratification of that Contract; his Catholic Majeſty's Words being, 'And I promiſe and aſſure, 'upon my Faith and Royal Word, that, *provided the Com-* 'pany of England *perform this Contract on their Part, ſo* 'far as concerns them, and as they are obliged, I will per-'form it on my Part.' Ann. 12 Geo. II. 1738-9.

'Thus it appears, my Lords, that the Payment of the 95,000 *l.* is not by this Convention, nor even by the King of *Spain*'s Proteſtation, to be delayed, much leſs denied, on Account of our *South-Sea* Company's not paying the 68,000 *l.* claimed from them by *Spain*. Therefore it is not our Buſineſs, upon the preſent Occaſion, to enquire whether that Claim be juſt or no. The Company may have greater Claims upon the Crown of *Spain*, and yet *Spain* may think themſelves juſtified in not admitting of Compenſation; for as the Claim the Company has upon the Crown of *Spain*, proceeds from the Seizure of their Effects in the Years 1718 and 1727, which have not yet, according to Treaties, been fully reſtored; and as the Court of *Spain*'s Claim upon the Company proceeds entirely from the *Aſſiento*-Trade, there may, from the very Nature of Compenſation, be ſome Reaſon not to admit of it in this Caſe; becauſe the King of *Spain* may alledge, that by reſtoring the very Effects that were ſeized, he may ſtill free himſelf from the Payment of any Money, or he may ſay, that what is due by him on that Account, is not yet fully ſettled and aſcertained; and that therefore he cannot allow it in Compenſation of a Nett Sum, which, he ſays, the Company has confeſſed to be due to him. My Lords, I do not ſay, that any of theſe Arguments are juſt, I only mention them to ſhew, that none of our Diſputes with *Spain* are ſo clear, or ſo eaſily adjuſted, as ſome have been pleaſed to repreſent.

'I hope it will now appear to your Lordſhips, that we are, by this Convention, to receive the full Sum of 95,000 *l.* from *Spain*, and that to this Sum we ought to add the

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60,000 *l.* we have allowed, for which *Spain* has given up a Demand ſhe had upon us of a much larger Extent; therefore we muſt allow, that the Reparation granted us by this Convention for our Loſſes before *Dec.* 10, 1737, amounts to the full Sum of 155,000 *l* which is more than 15 *s.* in the Pound of what we really loſt; and before I heard of this Treaty, I ſhould have thought him a very unreaſonable Merchant, and a very bad Countryman, that had told me, he would not willingly accept of 15 *s.* in the Pound in full of what he had loſt, rather than ſee his Country involved in a War againſt *Spain*, and at ſuch a Juncture. I ſay, my Lords, that 155,000 *l.* the Sum we are to receive by way of Reparation, amounts to more than 15 *s.* in the Pound upon our real Loſs; becauſe our own Commiſſaries did not value it at more than 200,000 *l.* and I have heard no good Reaſon given, why we ſhould diſcredit their Report, nor do I believe, from the Character I have heard of the Gentlemen, that they would have received, much leſs obeyed, any Inſtructions, by which they were enjoined not to admit of thoſe Demands, which appeared to them to be reaſonable and juſt: The *Spaniards*, we know, make heavy Complaints againſt them, for having admitted of the moſt extravagant Claims, and for refuſing no Claim that was laid before them; ſo that, like good Arbitrators, they are blamed by both Sides, which is ſeldom a Sign of Injuſtice. As for the five Ships mentioned in the 4th Article of this Convention, they were included in the 200,000 *l.* at which our Loſſes were valued by our Commiſſaries; and therefore, if any Part of any of them has been reſtored, the Value ought in Juſtice to be deducted out of the 95,000 *l.* to be paid to us, by *Spain*, for our Loſſes in general.

'We are ſo far, my Lords, from having obtained no Reparation, that, I think, I may now venture to ſay, we have obtained, by this Convention, a more ample Reparation than was ever obtaineed by this Nation in any former preliminary Treaty. Even in *Oliver Cromwell*'s Time, by the Treaty of Peace, after the War we then had with the *Dutch*, he accepted, by way of Preliminary, of an immediate Payment of 10,000 *l.* in Part of Satisfaction for a great number of *Britiſh* Ships that had been ſeized and detained in the Dominions of the King of *Denmark*. This, my Lords, was all he inſiſted on by the Treaty, though it was not near equal to the Loſs we had ſuſtained, the reſt being referred to be ſettled by Commiſſaries reſpectively appointed by the two Republics; and yet it muſt be allowed, that no Man ever inſiſted more ſtrenuouſly upon the Rights and Privileges of his Country, and that he had the good Fortune to live at a Time,

Time, when none of our Neighbours were in any tolerable Condition to engage in War, or to form a Confederacy againſt us. Ann. 12 Geo. II. 1738-9.

'Having now ſhewn, my Lords, that we have got, by this Convention, as ample a Satisfaction for paſt Loſſes as any reaſonable Man could expect, I ſhall beg Leave to conſider, as briefly as I can, what is ſtipulated, with regard to our future Security; and upon this Head I ſhall firſt obſerve, that from the Nature of the Diſpute between *Spain* and us, we could not expect that it was poſſible to provide, properly or fully, for our future Security by preliminary Articles. The *Spaniards* do not pretend to deny our Right to a free Navigation upon the open Seas of *America*; but the Diſpute between us is, what ſhall be reckoned the open Seas of *America*. They ſay, that their Coaſts cannot be called open Sea; and that therefore, if any one of our Ships come upon their Coaſts without Neceſſity, they have a Right to ſearch her, in order to ſee whether ſhe has been concerned in any illicit Trade with their Settlements: They ſay farther, that their Coaſts in *America*, as well as their Coaſts in *Europe*, are within their own Dominions; that they have a Power to make what Regulations they pleaſe within their own Dominions; and that, therefore, they have a Power to regulate what ſhall be deemed Teſtimonies of a Ship's having been concerned in an illicit Trade, if ſuch Ship be found upon their Coaſt. Now, my Lords, that every Nation has a ſort of a Right to, and a Dominion over, what may properly be called their own Coaſts, is what, I believe, no Man that underſtands any Thing of the Law of Nations will deny; but the Queſtion is, how far out at Sea theſe Coaſts ſhall extend; and as this is a Queſtion that has not yet been determined by any Treaty between *Spain* and us, it muſt be very particularly enquired into, before any Settlement can be made by a new Treaty. There may be Reaſons for confining the Coaſt within much narrower Bounds in ſome Seas than in others. In thoſe Seas, where the common Courſe of Navigation lies very near the Shoar, the Coaſt of the neighbouring Country muſt be very much confined; and in thoſe Seas, where the common Courſe of Navigation never approaches near the Shoar, the neighbouring Country, or State, may be allowed to extend their Coaſts to a greater diſtance at Sea.

'Theſe Conſiderations, my Lords, ſhew how difficult it will be to regulate what the *Spaniards* may be allowed to call their Coaſts in the *American* Seas, what may be called a Neceſſity for a Ship's approaching their Coaſts, and what may be called proper Teſtimonies, or Proofs of a Ship's having been concerned in an illicit Trade; and no Man who

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conſidered theſe Difficulties could expect, that they could be removed in a ſhort Time, or by a preliminary Treaty. The Negotiators on both Sides will certainly be obliged to ſend to the *Weſt-Indies*, in order to have proper Information from thoſe, who are perfectly acquainted with the Navigation in thoſe Seas; and both may, perhaps, be obliged to ſend a ſecond Time, in order to have thoſe Difficulties anſwered, or removed, that may be ſtarted upon the firſt Conferences. It is not our Right to a free Navigation in the open Seas of *America*: It is not our Right to carry in our Ships what Goods we pleaſe from one Part of his Majeſty's Dominions to the other: It is the Right the *Spaniards* have to take Methods, and to preſcribe Rules, within their own Dominions, that is to ſay, upon their own Coaſts, for preventing an illicit Trade with their Settlements in *America*, that is to be regulated by the Plenipotentiaries reſpectively named by this Convention; and in this, our Plenipotentiaries, if they were inclined, can do us no Injury; becauſe the Regulations they agree to can be of no force, till they are ratified by his Majeſty.

'Whatever ſome Lords may think of the Diſtinction between a Right and the Enjoyment of that Right, however incomprehenſible they may think it, I muſt look on it as a juſt and a proper Diſtinction; for a Man may have a Right to an Eſtate, and yet his Enjoyment of that Right may be regulated, or even reſtrained, by ſome Right or Privileges granted to another. We have a Right to a free Navigation in the Seas of *America*; but we have, by the Treaty in 1670, granted the *Spaniards* an excluſive Right to the Trade with their own Settlements in that Part of the World; and therefore we have, according to an eſtabliſhed Maxim in Law, granted them every Thing that is neceſſary for the Enjoyment of that excluſive Right. For this purpoſe they ſay, that they muſt ſearch ſuch Foreign Ships as approach their Coaſts without any Neceſſity, and muſt make them liable to Confiſcation, if any Thing ſhould be found on Board, that is the proper Produce of their Settlements; becauſe, without this, it would be impoſſible for them to exclude Foreigners from carrying on a Trade with their Settlements; and if this Privilege ſhould be allowed them, as a Conſequence of the excluſive Right we have agreed to by the Treaty in 1670, it would be a ſort of Reſtraint upon our Enjoyment of the Right we have to a free Navigation in the Seas of *America*. I am far from granting, my Lords, that there is any Foundation for this Pretence. I do not think, that ſuch a Privilege is abſolutely neceſſary for enabling them to enjoy their excluſive Right; but if it were, they would have ſome Reaſon for inſiſting upon it; and whether it be ſo

or

or not, is a Queſtion that could not be enquired into in a ſhort Time, and conſequently, could not be determined by a preliminary Article.

'Theſe are the Diſputes, my Lords, upon which our future Security depends; and as theſe Diſputes are of ſuch a Nature that they could not be ſettled in a ſhort Time, therefore we could not expect, that our future Security could be provided for any other way than it is by this preliminary Convention; nor could we in this Caſe ſtipulate any Suſpenſion: We could not ſtipulate, that they ſhould ſuſpend ſearching our Ships upon the high Seas; becauſe it is what they never pretended to: Such a Stipulation would really have been a ſort of Acknowledgment, that our Right to a free Navigation on the open Seas of *America* was a diſputable Point; and if we had deſired them to ſuſpend taking thoſe Meaſures, which they think abſolutely neceſſary for preventing an illicit Trade, they would have look'd on it as the Demand of a Privilege to carry on ſuch a Trade, till the definitive Treaty ſhould be concluded, which is a Demand we could not expect they would grant. Beſides, we had no occaſion to demand any Suſpenſion in this Caſe; becauſe, during the eight Months in which this Affair is to be finally determined, we ſhall have a Squadron in the *Weſt-Indies*, that will be ſufficient to protect our Trade, againſt any Injuſtice that can be committed by their *Guarda Coſtas*.

'As for the Article that relates to ſettling Limits between *Florida* and *Carolina*, I am ſurprized, my Lords, to hear it found fault with. We have got more by that Article, than we could ever before get by any Treaty between us and *Spain*; for by that Article, we have got them to acknowledge by Name, our Right to *Carolina*; and though we now give the Name of *Georgia* to the Southern Parts of *Carolina*, yet as *Georgia* was formerly a Part of that Country to which, in general, we gave the Name of *Carolina*, I think this Article implies an Acknowledgment of our Right to *Georgia*, and ſhews that the *Spaniards* do not diſpute with us our Rights to that Province, but only the Limits between what we now call *Georgia*, and what they and we call *Florida*. They may perhaps pretend, that we have extended our Settlements in *Georgia* too much towards the Southward, and, by that Means, have encroached upon their Territories in *Florida*; but from this Article it cannot ſo much as be preſumed, that they intend to diſpute our having a Right to any Part of *Georgia*; and if they ſhould, our Plenipotentiaries may refuſe to treat with them upon ſuch Terms; for by this Article they are laid under no Obligation to do ſo. Here, indeed, the very Nature of the Diſpute made a Suſpenſion neceſſary; but I muſt obſerve,

Ann. 12 Geo. II. 1738-9.

that this Suſpenſion is mutual; for the *Spaniards* are obliged to ſuſpend increaſing their Fortifications, or taking any new Poſts in *Florida*, as much as we are in *Carolina*; and as Limits between Frontier Provinces are generally referred to be ſettled by Commiſſaries, after a definitive Treaty is concluded, I am ſure no Fault can be found with referring the Limits between theſe two Provinces to be ſettled by Plenipotentiaries, named and appointed by a Preliminary.

'I have now ſhewn, I hope, my Lords, that by this Convention we have got all we could reaſonably expect by a Preliminary; from whence it muſt be preſumed, I think, that we are in a fair Way of getting all we can reaſonably demand, by the ſolemn Treaty that is to be concluded in purſuance of this Preliminary, within the ſpace of eight Months, which is the ſhorteſt Time that could be given for ſettling thoſe Diſputes, which ſtill ſubſiſt between us and *Spain*. Therefore, if the Affairs of *Europe* were in as favourable a Situation as we could wiſh, if our own Circumſtances were as happy as we could deſire, it would have been imprudent in us to have begun Hoſtilities, when we have found the Court of *Spain* ſo well inclined to give us all reaſonable Satisfaction: His Majeſty would have acted contrary to the Advice given him laſt Seſſion by his Parliament, if he had refuſed to accept of ſuch a preliminary Convention. By commencing Hoſtilities we might, perhaps, have added to our Glory, and might have given more Satisfaction to thoſe who delight in Striſe and Contention, as well as to Men of deſperate Fortunes, who want to fiſh in troubled Waters; but theſe Sorts of Men are ſuch as no wiſe Government will endeavour to ſatisfy; and every one knows, that the Happineſs of a Country is diſtinct from, and often inconſiſtent with its Glory. The late King of *Sweden*, by ſeeking his own Glory in War, raiſed it to a very high Pitch; but he ruined, he diſpeopled his Country; and if we follow the Example of Cardinal *Fleuri* (for I think I may name him) which the noble Lord that ſpoke laſt has been pleaſed to recommend to us, we ſhall never go to War without an abſolute Neceſſity; for he has procured more Happineſs for his Country, and acquired more Glory to himſelf, than the late *French* Monarch did by all his Wars, and by all the Tapeſtry or Hiſtorical Looms he ſet to work, aſſiſted by an infinite Number of Poems, Panegyrics, and Pieces of Painting, which he procured at a vaſt public Expence, for celebrating the heroic Actions he performed by his Generals and his Armies; for whatever Share he might claim in the Glory, I think he took care never to have any Share in the Danger.

'I ſay, my Lords, if the Affairs of *Europe*, as well as our domeſtic Affairs, had been in the beſt Situation, it would have

have been imprudent in us to have engaged in War, eſpecially againſt *Spain*, when we found ourſelves in ſo fair a Way of obtaining all we could deſire by peaceable Means; but, as neither our own Affairs, nor the Affairs of *Europe*, can be ſaid to be at preſent in a very favourable Situation, it was certainly our Buſineſs to avoid engaging in War, at this Juncture, if poſſible. What this Situation may be owing to, I ſhall not take upon me to determine; but, with Reſpect to our domeſtic affairs, I am ſure, the Situation they are in is not owing to any late Miſmanagement here at home. The Debts and the Taxes we are at preſent loaded with, are known to be the unhappy Relics of the laſt heavy War we were engaged in againſt *France* and *Spain*. We have never ſince engaged in any War, we have been put to no Expence, but what has been authorized or approved by Parliament, as being abſolutely neceſſary for the current Service; therefore if we have paid off but a ſmall Part of the Debt we incurred during that War, it can proceed from no Miſmanagement, but from a tender Regard to the People, which prevented our loading them with more Taxes than were abſolutely neceſſary, for paying the Intereſt growing due to the Creditors of the Public, and for defraying that Expence which the Parliament, from Year to Year, thought neceſſary for the Public Service.

'And with regard to the preſent Situation of Affairs in *Europe*, it may, for what I know, my Lords, be owing to the Ambition of one Court, and the Pride and Obſtinacy of another; but, I am ſure, it can be no way juſtly imputed to the bad Conduct of any of thoſe who are now, or have lately been, employed in the Adminiſtration of our public Affairs. Our Miniſters are neither the Maſters nor the Directors of the Councils of foreign Princes or States; and therefore, cannot be juſtly made to account for their Actions or Behaviour. They may be made to account for their own; but, with regard even to their own Behaviour, we ought not to judge of their Meaſures by the Event, we ought to conſider them in the Light they appeared in when taken: It is eaſy to find Fault with paſt Meaſures, when croſs Accidents happen that could not be then foreſeen, or when Time clears up Facts that could not be then diſcovered; but, whatever our late Meaſures may have been with regard to foreign Affairs, thoſe who adviſed them have had the good Fortune to have every Step of their Conduct approved of by Parliament. Even the late Treaty of *Hanover*, which ſome People now pretend to find Fault with, was approved by Parliament; and I ſtill think it deſerved the Approbation it met with; for, by the Treaty between the Emperor and *Spain*

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Ann. 12 Geo. II. 1738-9.

in 1725, they had certainly both formed Projects againſt the Trade or the Poſſeſſions of this Nation: The Emperor had formed a Project of eſtabliſhing the Trade of *Flanders* upon the Ruins of the Trade of this Kingdom; and the Court of *Spain* had formed a Project for wreſting from us the important Fortreſſes of *Gibraltar* and *Port-mahon*. Againſt theſe Projects, the beſt, indeed the only Meaſure we could take, was the defenſive Alliance we entred into with *France*, by the Treaty of *Hanover*; and this accordingly put an End to the ambitious Projects both of the Emperor and *Spain*; or, at leaſt, the Meaſures we took in purſuance of that Treaty, prevented their being able to carry any of them into Execution. The Meaſures we took upon the breaking out of the late War between *France* and the Emperor, had likewiſe the good Fortune to be authorized or approved by Parliament, and, I think, with great Reaſon. We had then no Demands either upon *France* or *Spain*, at leaſt, none that either of them had expreſsly refuſed to comply with: therefore, from our own Intereſt, we had no Call to engage in that War, unleſs it had been puſhed ſo far as to endanger the Balance of Power in *Europe*; and ſurely, we are not obliged to ſupport the Court of *Vienna* in all the ambitious Projects they may form, nor were we obliged to aſſiſt them in a War they had brought upon themſelves, by endeavouring to preſcribe Rules to an independent Kingdom, in the Election of its Sovereign.

'Thus, my Lords, I have ſtated in a proper Light, thoſe Facts which, I think, have been very much miſtaken by ſome Lords who have ſpoke in this Debate; and I have endeavoured to do it with that Plainneſs and Simplicity, which becometh the Dignity of this Houſe. If Wit and Eloquence could have any Weight with your Lordſhips, thoſe who have ſpoke upon the other Side of the Queſtion could not have failed of perſuading; but, I think, it is a bad Compliment to your Lordſhips Judgment, to attempt to perſuade by ſuch Means: I know your Lordſhips Caution and Penetration, and therefore, if I could, I ſhould not attempt to impoſe upon your Judgment by Wit or Eloquence, eſpecially in the preſent Queſtion; becauſe the Side on which I ſpeak, ſtands in need of none of the Arts of Perſuaſion: If it be viewed in its true and natural Light, like Truth, it muſt be irreſiſtable.'

Lord *Bathurſt*.

Lord *Bathurſt*.

'My Lords, In what I have to offer to your Lordſhips upon the Subject now under our Conſideration, I ſhall not ſo

ſo much as attempt any ſort of rhetorical Style: I have, indeed, I think, much leſs Occaſion for it than the noble Lord who ſpoke laſt; for Facts ſpeak themſelves, and all the Facts that relate to the preſent Queſtion, are ſo plainly againſt that Side which his Lordſhip ſeemed to favour, that he muſt pardon me, if I think, he could have ſaid but very little, if he had made no uſe of any of the Arts of Eloquence. If it were poſſible to imagine that Wit or Eloquence could have any Influence upon this Houſe, I ſhould have but little Encouragement to think myſelf capable of either; for in all the important Queſtions that have happened, almoſt ever ſince I have had a Seat here, the Majority has generally been againſt that Side of the Queſtion, on which I had the Misfortune to ſpeak; yet I always thought I had Reaſon on my Side; but, as I now think I have a great deal more Reaſon than ever I had upon any former Occaſion, I hope to meet with a different Fate. That there are Aſſemblies which are led by their Paſſions, and that in ſuch Aſſemblies only the Arts of Eloquence can be of Service, I ſhall readily grant; but I muſt obſerve, that, as ſome Paſſions are to be led by the Senſe of Hearing, there are others which are to be led by the Senſe of Feeling alone; and, if I were not fully convinced, that the Members of this Aſſembly are governed by Reaſon, and by nothing elſe, I ſhould never attempt to ſpeak, becauſe I know myſelf as little capable of touching thoſe Paſſions that are to be led by Feeling, as I am of touching thoſe that are to be led by Hearing.

Ann. 12 Geo. II. 1738-9.

'My Lords, when we granted thoſe extraordinary Powers that were given laſt Seſſion to the Crown, I believe none of your Lordſhips meant, I am ſure I did not imagine, that, in conſequence of that Grant, the Nation was to be put to any extraordinary Expence, as long as there were the leaſt Hopes left of an Accommodation. Theſe Hopes, I knew, might have been determined by the Return of one Courier: They ought to have been ſo, conſidering how far the Seaſon of the Year was advanced, and the Danger our Navigation and Commerce lay expoſed to in the mean time. It was only ſending Orders by a Courier to our Miniſter at the Court of *Spain*, to have put two or three plain Queſtions to that Court, by way of *Ultimatum*, and to have inſiſted on a ſpeedy and categorical Anſwer. This, I knew, might have been done in three or four Weeks: and therefore, when I heard of our great naval Preparations, I expected nothing but War: I expected that ſome of my honeſt Neighbours in the Country would be relieved from the Burden of quartering Soldiers; becauſe I made no doubt, but that a large Body of our

Ann. 12 Geo. II, 1738-9. our Troops would be embarked on board our Fleet, and ſent where they might be of ſome Service to their Country. I little thought that this Seſſion of Parliament would have opened with a ſort of Treaty or Convention, that gives us neither War nor Peace, nor any thing, in my Opinion, but Shame and Confuſion.

'Indeed, when I heard our Squadrons were ſailed, and found by the Complaints of my Neighbours, that our Troops remained, I cannot ſay quiet, in their Quarters, I began to ſuſpect ſome new *Carthagena* Expedition. I began to fear that our ſham War would end in a ſham Peace; and now I find my Fears were not without Foundation. But, my Lords, if we had obtained as honourable a Treaty as ever was concluded by this or any Nation, I would, nevertheleſs, have ventured to have ſaid, that the Expence we put ourſelves to, the Squadrons we fitted out, had no Share in obtaining it; for ſurely thoſe Fleets, thoſe warlike Preparations, that can do no conſiderable Harm to an Enemy in caſe of a War, can have no Influence in obtaining a Peace. Our Squadron ſent to the *Mediterranean* was, it ſeems, deſigned to be a harmleſs Squadron; and that which was ſent to the *Weſt-Indies*, 'tis allowed, muſt have been ſo, till they got ſome Land-Forces on board, for which no Preparations were made, either at Home, or in our Plantations. But we are told, that Land-Forces might ſoon have been raiſed in our Plantations, which is a Fact I very much doubt of: We have, as yet, but few ſpare Hands in any of our Plantations, and to have taken Men from that valuable Labour, in which our Planters and their Servants are always employed, would have been a great Loſs to our Trade. It would have been much better to have ſent eight or ten thouſand of the idle Fellows we have at Home, to ſome of our moſt healthful Plantations, in order to have been there ready at a Call; for the Difference of the Climate is ſo far from being an Argument againſt, that it is a ſtrong Argument for ſending them thither ſome Months before we have Uſe for them, that they may have Time to be ſeaſoned to the Climate, and to recover from the Fatigues of a long Voyage, before they are ſent upon any Expedition againſt an Enemy.

'This, my Lords, would have had a greater Influence upon the Court of *Spain*, than all the Men of War we fitted out; for I muſt think it was a very extraordinary ſort of Management, to fit out above a hundred Sail of Men of War, againſt a Nation that cannot ſend thirty capital Ships to Sea. Therefore, if the Court of *Spain* was to be frightned or threatned into Terms, we ought to have ſent out Regiments of Foot, inſtead of moſt of the Men of War that

were

were fitted out; and if that Court was not to be threatned, there was no Occaſion for putting ourſelves to any Expence, till a War was actually reſolved on. As they have but few Ships at Sea, and thoſe they have, hard to be met with in ſuch a wide Ocean as that between *Spain* and *America*, our Squadrons, without a Land-Force along with them, can do them little or no Prejudice; and ſuppoſe we could have raiſed a ſufficient Land-Force in our Plantations, it will, I hope, be allowed, that, after we had ſent Orders for raiſing that Land-Force, we might have fitted out a Squadron here at Home, and ſent it thither, Time enough for taking thoſe Land-Forces on board, before they could have been ready to embark. Therefore we had as little Occaſion for putting our ſelves to the Expence of Naval Preparations, as we had for putting ourſelves to the Expence of raiſing Land-Forces, till we had got a final Anſwer from *Spain*; and without threatning to invade ſome of their Territories, in *Europe* or *America*, with a Land-Army, our numerous Squadrons could now as little perſuade them to agree to our Terms, as *Hoſier*'s Squadron could formerly perſuade them to deliver the Effects of their Galleons into his Hands. Ann. 12 Geo. II. 1738-9.

'I am convinc'd, my Lords, that the Squadrons we ſent out laſt Summer, like ſome others we have upon former Occaſions fitted out, gave all *Europe* an Occaſion of Mirth, inſtead of giving the *Spaniards* an Occaſion of Fear. The Court of *Spain* muſt miſtake our Power, or deſpiſe our Management, otherwiſe they would not have dared to have offered ſuch a preliminary Treaty, as we have ſtoop'd to accept of. Preliminaries are ſometimes agreed on by Nations engaged in War, before they can conclude a ſolemn and definitive Treaty of Peace; but by ſuch Preliminaries the moſt material Points are always ſettled, and ſome Pledges are generally given for Performance of Articles, By theſe Preliminaries no one material Point is ſettled; the only one that is ſettled is, that relating to the Damages we have ſuſtained, and that is ſettled by our agreeing to give a general Releaſe, without receiving one Shilling Conſideration. Can this be called a Treaty? To me it ſeems as if our Miniſter had preſented M. *de la Quadra* with a *Carte Blanche*, a Sheet of clean Paper, and deſired he would write what he pleaſed, becauſe it was neceſſary for us to have a Treaty of ſome kind or other.

'My Lords, I ſhall grant that, before we reſolve on a War, we ought to conſider what we may loſe, as well as what we may get; but, I hope, 'twill be allowed, that before we conclude a Peace, or any Treaty for preventing a War, we ought to conſider the Dangers we may be expoſed to by ſubmitting to an infamous Peace, as well as the Dan-

Ann. 12 Geo. II. 1738-9.

gers we may be expoſed to by engaging in a juſt and honourable War. It ſeems now to become a faſhionable Doctrine amongſt us, that a Trading Nation ought to be cautious of engaging in a War. My Lords, it is directly the contrary: No Nation ought to go to War without Provocation; but of all Nations in the World, a Nation engaged in Foreign Trade ought to be the moſt jealous of its Honour and Privileges, and therefore the moſt cautious of ſubmitting to any thing that may look like an infamous Peace. The Nature of its Trade obliges many of its People to travel, and ſome of them to live in Foreign Countries: They muſt there meet with Juſtice and Reſpect, otherwiſe they neither will travel nor live, nor can they carry on any Trade. But can they expect to meet with Juſtice, or even with common Civility, if the Nation to which they belong be generally deſpiſed and contemned, which it muſt be, if it ſubmits to an infamous Peace? This will be our Caſe, if we ſhould be ſo fond of Peace as to avoid going to War, when we have a juſt Occaſion. If we do not vindicate our Honour, and aſſert the Rights and Privileges of our People, in all Parts of the World where they may have occaſion to go, we muſt give up our Foreign Trade; for no *Britiſh* Subject will go Abroad to take Care of it, if he finds himſelf inſulted and abuſed in every Country he comes to. Our own Colonies will deſert us: If we will not protect them, they muſt ſeek for Protection ſomewhere elſe. Therefore, if we have a Mind to preſerve our Trade or our Navigation, we muſt take Care not to be inſulted: We muſt reaſſume one of our ancient Motto's: *Nemo me impune laceſſet*, muſt be the Word in every Mouth, and the Reſolution of every Aſſembly, within the *Britiſh* Dominions.

'I ſhall not pretend to ſay, my Lords, that we have Victory chain'd to our Chariot-Wheel, yet I may ſay, what from all our Hiſtories will appear, that in the Wars we have been engaged in, we have always come off with Honour, when our Affairs were under a wiſe Adminiſtration. In a War with *Spain*, if we judge from Experience, we have more to hope than to fear. We may do them great Damage, and gain conſiderable Advantages to our ſelves, even by Privateering, or ſeizing their Ships at Sea. They cannot ſubſiſt, they cannot defray the Expences of their Civil Government, much leſs ſupport the Charge of a heavy War, without having their Treaſure brought home from *America*. If they bring it home in *Galleons* or *Flota's*, we may intercept it by our Squadrons: If they bring it home in ſingle Ships, we ſhall intercept many of them by our Privateers or ſmall Cruizers. They cannot bring it home either in *French* or *Dutch* Ships; becauſe by the ſixth Article of the Treaty of *Utrecht* between

tween *France* and us, the King of *France* is expreſsly obliged, not to accept of any other Uſage of Navigation to *Spain*, and the *Spaniſh Indies*, than what was practiſed there in the Reign of King *Charles* II. of *Spain*, or than what ſhall likewiſe be fully given and granted at the ſame time, to other Nations and People concerned in Trade. Therefore the *Spaniards* could not lay the Trade to their Settlements in *America* open to the *French*, at leaſt the *French* could not accept of it; and if the *Dutch* ſhould, they would be oppoſed by *France* as well us, which is an Oppoſition they would not, I believe, chuſe to ſtruggle with. And as for the *Spaniards* carrying on a Correſpondence with the *Dutch* at *Curaſſao*, or the *French* at *Hiſpanolia* or *Martinique*, the Courſe of Navigation between their Settlements upon the Continent and theſe Iſlands, is ſo much confined, that we might intercept every one of their Ships, either by our Men of War or Privateers. Beſides, my Lords, theſe Expedients, or any Expedient that could be contrived, would lay the whole *Spaniſh* Nation under ſuch Diſtreſſes and Difficulties, that they would be glad to accept of Peace upon reaſonable Terms.

'Thus, my Lords, we might not only reap Advantage by diſtreſſing them at Sea, but we might reap ſtill greater Advantages, and reduce them to greater Difficulties, by attacking them at Land. It would not, 'tis true, be our Intereſt to attempt making any Conqueſts upon the Continent of *Old Spain*; but by having a Squadron with five or ſix thouſand Land-Forces on Board, continually roving round their Coaſts, and making Inroads upon the Country, as often as they found an Opportunity, we might do infinite Miſchief to our Enemies, and often get rich Booties for our Soldiers and Seamen. Then with Regard to their Settlements in *America*, as we could prevent any Supplies of Troops or Ammunition being ſent thither from any Part of the World, we might plunder them from one End to the other; or, if we thought it more for our Purpoſe, we might enable them to throw off the Yoke of *Spain*, which moſt, even of the *Spaniards* that are born there, would gladly do, if they had any Support on which they could depend, becauſe of the Oppreſſion they meet with from their Governours and other Officers, who are all Natives of *Old Spain*. We are not to judge of what may be done againſt *Spain* in the *Weſt-Indies* from our Management of the laſt War againſt *France* and *Spain*. It was not the Difficulty of the Undertaking that prevented an Attempt being made in that Part of the World; but we had taken ſo great a Share of the War in *Europe* upon our ſelves, and were at ſo great an Expence, that we could not ſpare either Money or Troops for ſuch an Undertaking; and as none of our Allies would join with us

Ann. 12, Geo. II. 1738-9.

in it, if we had gone upon it by our ſelves alone, it might have created a Jealouſy in ſome of them, which would have been of dangerous Conſequence to the grand Deſign; but if the whole Confederacy had agreed to have made a vigorous Puſh that Way, immediately after the Battle of *Hochſtet*, I believe it would have ſucceeded, and would have been a Means of putting and End to the War much ſooner than we did; for the *French*, as ſome of their Miniſters have ſince declared, would not have been ſo long able to ſupport the Expence of the War, if it had not been for the great Remittances they had from the *Spaniſh Weſt-Indies*.

'Now, my Lords, with regard to the Dangers we may be expoſed to, even ſuppoſe *France* ſhould join openly with *Spain* againſt us, if we were united amongſt ourſelves, and under a popular, that is, a wiſe Adminiſtration, we have nothing to fear from an Union of theſe two great Powers. We may frighten ourſelves with Bugbears of Invaſions, and God knows what; but till they have a Naval Force ſuperior to any we can ſend againſt them, we have nothing to fear; and it would be our Fault if we allowed them to increaſe their Naval Force during a War. We may, 'tis true, be obliged to divide our Naval Force; but the Naval Force of *France* and *Spain* could not all join in one Port; we might render it almoſt impoſſible for them to do ſo; and if they ſhould, we might join our Squadrons together as well as they, in which Caſe we ſhould be more than match for them. The Sea, my Lords, is our Element, and it will be our Defence, as long as we preſerve our Trade, which we muſt loſe, if we allow our Merchants and Seamen to be inſulted and plundered. A War with *Spain* is, therefore, become unavoidable, if they refuſe to give us Satisfaction, as well as Reparation and Security; and if they ſhould be joined by *France*, let the Dangers from ſuch an Union be what they will, we muſt face them; for I hope no Man will ſay, we are to look tamely on, and ſee *France* and *Spain* plundering our Merchants, abuſing our Seamen, and deſtroying our Trade, with Impunity.

'The preſent Circumſtances of *Europe*, my Lords, I ſhall allow to be very different from what they were in Queen *Elizabeth*'s Days; but if ſhe had managed her Foreign Negotiations, as we ſeem to have managed ours for theſe twenty Years paſt, ſhe would have been in much worſe Circumſtances than at preſent. She was in danger of having *Spain*, *France*, and *Scotland*, joined with a powerful Party in her own Dominions, againſt her. Towards the beginning of the Year 1585, the Duke of *Guiſe* had got almoſt the abſolute Government of the King and Kingdom of *France*, and

Philip

Phillip II. of *Spain* had juſt conquered *Portugal*, and had almoſt entirely reduced the Malcontents in *Holland* and *Flanders*. Theſe two were in a private League againſt the Proteſtant Religion, and had very near prevailed on *James* VI. of *Scotland*, afterwards *James* I. of *England*, to join with them. In theſe Circumſtances, if Queen *Elizabeth* had ſent weak or ridiculous Ambaſſadors to Foreign Courts, or if ſhe had thought only of putting off the Evil Day by temporary, annual Expedients, both ſhe and the Proteſtant Religion would have been undone; but ſhe foreſaw her Danger, and reſolved, therefore, to begin the Attack, before the Project of her Enemies was ripe for Execution. She ſent one of the ableſt and moſt expert Miniſters then in the World, to *Scotland*, by whoſe Addreſs and Intrigues ſhe at laſt ſecured that King in her Intereſt. She attacked the King of *Spain* in his own Dominions, both in the *Netherlands* and the *Weſt-Indies*; and ſhe gave ſuch Aid to the *Huguenots* in *France* as entirely diſappointed the Projects of the Duke of *Guiſe*, and greatly contributed towards raiſing *Henry* IV. to the Throne of that Kingdom. If we had had ſuch Foreſight and Wiſdom for theſe twenty Years paſt, or had employed ſuch Miniſters in our Foreign Negotiations, we ſhould not now have been frightning ourſelves with the Conjunction of *France* and *Spain* againſt us, nor ſhould we have been lamenting that we have not a Friend in *Europe*, on whom we can depend for Aſſiſtance.

Though our War with *Spain* in Queen *Elizabeth*'s Time continued for many Years, we are not, my Lords, from thence to conclude, that the War muſt now continue as long, before we can bring them to a Compliance. This Nation is now more powerful, and *Spain* much weaker, than at that Time. Queen *Elizabeth* was Queen of *England* and *Ireland* only: Our Plantations were in their Infancy, *Ireland* often in a State of Rebellion, and *Scotland* kept in Friendſhip with us by her Wiſdom alone. On the other hand, the King of *Spain* was then Maſter both of *Spain* and *Portugal*, and as powerful, perhaps more powerful than at preſent, in the *Weſt-Indies*: Beſides which, he was then Maſter of the ſeventeen Provinces of the *Netherlands*, and of the two *Sicilies* and *Milan* in *Italy*. To this I muſt add, that in Queen *Elizabeth*'s Time, it was not the Intereſt of this Nation to be at Peace with *Spain*; her Subjects made a great deal more by the War, than they could have done by an open Trade with that Kingdom; therefore ſhe would never hear of reſtoring the Peace, though the *Spaniards* would have gladly ſued for it to her, if they had hoped for Succeſs, as they did to her Succeſſor, before he was well ſeated on the Throne.

Ann. 12 Geo. II. 1738-9.

Throne. In *Oliver Cromwell*'s Time, the War he engaged in againſt *Spain*, was certainly a Piece of political Wiſdom: He found it neceſſary to eſtabliſh his Government, by making ſome Conqueſt, or gaining ſome Advantage for the Nation abroad; and *Spain* was the only Nation from whom he could take any thing that would be of real Advantage to this. He joined with *France*, 'tis true; but the Power of *France* was not then formidable; and by his getting Poſſeſſion of *Dunkirk*, he opened a Door for our aſſiſting *France* againſt *Spain*, or *Spain* againſt *France*, according as we ſhould afterwards find proper; and if he had lived, as he underſtood the Intereſt of his Country, he would probably have ſoon clapt up a Peace with *Spain*, and perhaps have joined with them againſt *France*, which would probably have prevented the *Pyrenæan* Treaty of Peace, the Source of all the Evils *Europe* has ſince been expoſed to; but he died within three Months after he had got Poſſeſſion of *Dunkirk*, and but a little more than three Years after he had begun the War with *Spain*; ſo that the Continuance of that War is not to be imputed to any Inability we were in of forcing *Spain* to accept of a Peace upon reaſonable Terms, but to the Confuſions and Diſtractions this Nation was in, from *Cromwell*'s Death to the Reſtoration of King *Charles* II. when Peace between the two Nations was reſtored, though the ſolemn Treaties for that Purpoſe were not concluded till the Years 1667 and 1670.

Therefore, my Lords, if we judge from Experience, we muſt conclude, that if *Spain* is not ſupported by *France*, the War between the two Nations cannot be of any long Continuance; and while it continues, if right Meaſures are taken, our Trade cannot ſuffer ſo much by their Privateers, as it has done for almoſt twenty Years by their *Guarda Coſta's*, But ſuppoſe they ſhould be ſupported by *France*, yet if Care be taken to remove the Diſcontents of our own People, and vigorous Meaſures purſued, I think *France* and *Spain*, even when united againſt us, have more to fear from us, than we have from them, though we ſhould be ſo deſtitute of Friends as not to meet with Aſſiſtance from any one Power in *Europe*. Indeed, if we ſhould ever have the Misfortune to be involved in a War againſt *France* and *Spain*, while we are under an Adminiſtration, in which neither our People at home, nor our Friends abroad, can put any Confidence, an Adminiſtration who had ſhewn themſelves incapable of governing in Time of Peace, and who, of courſe, we muſt ſuppoſe much more incapable of governing in Time of War; in that Caſe I do not know what might be the Conſequence. Such an Adminiſtration would think of no-

nothing

thing but protecting themſelves at home, againſt the Reſentments of an injured and diſcontented People, and would, therefore neither think of, nor be able to take, proper Meaſures for diſtreſſing our Enemies abroad, or for protecting our Trade at Sea, or our Poſſeſſions at Land, in any diſtant Part of the World. Our only Safe-guard, our only Relief, would be in our Parliament; and the only Meaſure our Parliament could take, for the Salvation of their Country, would be, to force a Change in the Adminiſtration, and to recover the Affections of our own People, and the Confidence of our natural Allies, by puniſhing thoſe, who, by their Conduct, had forfeited both. Ann. 12 Geo. II. 1738-9.

'Thus, my Lords, I believe it will appear, that if we were now at Liberty to conſider the Dangers we may be expoſed to, and the Advantages we may reap, by engaging in a War with *Spain*, we ſhould, upon the Compariſon, find, that we have more to hope than to fear; but we have met with ſo many Inſults, and ſuch diſdainful Treatment from that Nation, for many Years paſt, that if they refuſe or delay to give us Satisfaction, Reparation, and Security, we have no ſuch Liberty left, we muſt go to War let the Conſequence be what it will; and in ſuch a Caſe, I can look upon no Man as a Friend to his Country, who endeavours to terrify the People with the Dangers they are to encounter. This, my Lords, leads me of courſe to conſider, whether we have got, by the Convention now under our Conſideration, any Satisfaction, Security, or Reparation; and for this Purpoſe, I ſhall go through the ſeveral Articles; but I muſt firſt obſerve, that with regard to Satisfaction, there is not one Article that relates to it: It is not ſo much as referred to the Plenipotentiaries to regulate what Satisfaction the *Spaniſh* Nation ſhall make us, for the many heinous Indignities they have put upon us: Nay we ſeem, by the very Preamble, to have given up all Title to it, by acknowledging, that the Grievances have been mutual. My Lords, I defy the moſt eloquent Advocate for *Spain*, to ſhew any one Grievance we have ſubjected them to, or any one Injury we have done them, ever ſince the Treaty of *Seville*. By that Treaty we did them a moſt ſingular Favour, at the Expence of our antient Ally the Emperor; and we have been heaping Favours upon Favours ever ſince: Therefore I muſt think it was a ſacrificing of the Truth, as well as the Honour of this Nation, to allow it to be ſaid in the Preamble, that Grievances were alledged on each Side, as well in the *Weſt-Indies*, as elſewhere.

'Then, my Lords, with regard to our future Security, I muſt obſerve, that it is of two Kinds: It relates either to the Freedom

Ann. 12 Geo. II. 1738-9.

Freedom of our Navigation and Commerce, or to the free Enjoyment of our Poſſeſſions and Privileges in that Part of the World. As to the Freedom of our Navigation and Commerce, the only Article that relates to it, is the firſt, and by that we have almoſt in expreſs Terms given it up; for as a noble Lord has obſerved before me, if it be regulated, it muſt be reſtrained, and that which is reſtrained, can no longer be ſaid to be free. I was ſurprized to hear it ſaid, that the *Spaniards* pretend to a Right of ſearching our Ships, only upon their own Coaſts. Do not we know that they ſearch them wherever they can meet with them in the *American* Seas? Do not ſeveral of the Petitions and other Papers we have before us ſhew, that they not only ſearch them many Leagues out at Sea, but pretend to make Prize of them, upon the ridiculous Pretence of their having contraband Goods on board? What the *Spaniards* may mean, or what the noble Lord that ſpoke laſt may mean, by their own Coaſts, I do not know: It is a Word that has no determined Signification; but whatever may be meant by the Word, it is certain that no Right or Dominion can be acquired to any Part of the Sea, no more than to any Part of the Land, but by Occupancy and Poſſeſſion, which muſt be declared by overt Acts; for a Nation's being in Poſſeſſion of the Land, gives them no Right to any Part of the neighbouring Sea; and I do not know that we have ever yet allowed the *Spaniards* to take Poſſeſſion, or to claim any Right to any Part of the Seas of *America*, without the Limits of their Ports or Havens. By the Treaty in 1670, we promiſed, 'tis true, that the Subjects of this Kingdom ſhould not ſail to and traffick in the Ports and Havens, that have Fortifications or Magazines, nor in any other Place poſſeſſed by the King of *Spain* in the *Weſt-Indies*; but we did not promiſe that our Ships ſhould not ſail along their Coaſts, nor did we give them a Right to ſearch ſuch Ships, or to preſcribe what ſort of Goods or Effects they ſhould have on board: Nay, we did not ſo much as give them a Right to ſearch any of our Ships, that ſhould be forced into any of their Ports in *America*, by ſtreſs of Weather, or any ſuch Accident: On the contrary, we expreſsly ſtipulated, that ſuch Ships ſhould be allowed to depart whenever they had a mind, without any lett or Moleſtation. Yet that Treaty, which now ſeems to be the utmoſt we aſpire to, was in thoſe Days thought ſo diſadvantageous for this Kingdom, that the Gentleman who negotiated and concluded it, durſt never return to *England*, though he was of a good Family, and had ſeveral conſiderable Relations, who might have procured him a *Quietus* for any ſlip he had been guilty of in his Negotiations,

tions, if our Parliaments had then been as ready to overlook such slips, as some have been since that Time. Ann. 12 Geo. II. 1738-9.

'By the Treaty in 1670, my Lords, the *Spaniards* have no Right to search any *British* Ship, even in their Ports in the *West-Indies*, when such Ship happens to be forced in there by any Sea-Distress; and much less have they a Right to confiscate Ship and Cargo, on account of her having *Spanish* Money, or *Spanish* Goods on board, unless they could prove that such Money, or such Goods, had by that Ship been taken on board from some of their Settlements. Nay, in *Old Spain*, where a free Trade is allowed, they are not to search a *British* Ship, even in their Ports, till she be unladed: They are only to put Custom-House Officers, not exceeding three, on board, to see that while she is unlading, no Goods shall be landed without paying the Duties; as appears from the 10th Article of the Treaty 1667. But now, it seems, we are reduced so low, that we must grant them a Right to search our Ships within what they shall please to call their Sea Coasts, that is to say, within sight of any Land they shall please to call theirs in *America*; for that will be the Consequence: If you fix it at one League, or two Leagues from the Shore, their *Guarda Costa's* will say, every *British* Ship that is within sight of Land, is within one or two Leagues of the Shore: Nay, farther, we must grant them a Right, it seems, not only to search, but to confiscate Ship and Cargo, if upon such Search, they find, or can steal, on board, two or three Pieces of *Spanish* Money, or any other Goods which they call the Produce of their Settlements in *America*. At this rate, my Lords, we must give up *Jamaica*, and all our Sugar Islands; for no Ship can sail either to or from *Jamaica*, without coming upon what the *Spaniards* may call their Coasts; and no Ship can return from *Barbadoes*, or any of our other Sugar Islands, without coming upon the Coasts of some of those Islands in the *West-Indies*, which the *Spaniards* call theirs; because no Ship can return from thence, without coasting along those Islands, in order to get to the Northward of the Trade Winds, before they can bear away for any Part of *Europe*.

'Therefore, my Lords, the allowing them a Right or Privilege to search our Ships upon any Part of the Seas of *America*, or the allowing them a Right to confiscate a *British* Ship, on account of her having any Effects on board, which they may call the Produce of their Settlements, even though such Ship should by distress be drove into any of their Ports or Havens in that Part of the World, is what we can never grant. It is what we ought not to have negotiated

Ann. 12 Geo. II. 1738-9.

about, and much leſs ought we to have referred it to Plenipotentiaries to be regulated; for if it be regulated, it muſt be eſtabliſhed; and we may judge from their late Behaviour, how well they will obſerve any Regulations it can be laid under.

'From whence, my Lords, it appears, I think, moſt evidently, that, inſtead of ſtipulating any Thing for the future Security of our Trade and Navigation in the *American* Seas, we have, by this Convention, almoſt expreſsly given up the Freedom both of our Trade and Navigation in thoſe Seas. But, ſuppoſe their Right of ſearching and confiſcating *Britiſh* Ships, that may be found ſailing along their Coaſts in *America*, were to be eſtabliſhed, and put under certain Regulations, by the definitive Treaty that is to be concluded in purſuance of this Convention, ſurely, my Lords, conſidering the bad Uſe they have lately made of this pretended Right, we ought to have ſtipulated a Suſpenſion of the Exerciſe of this Right, till thoſe Regulations ſhould be ſettled and agreed on by a ſolemn Treaty. We might have ſtipulated, that in the mean time, they ſhould abſtain from ſearching *Britiſh* Ships on any Part of the Seas of *America*, and from confiſcating them, unleſs upon a full Proof of their having been concerned in an illicit Trade with their Settlements. But we are told, the *Spaniards* would have look'd upon this as a Stipulation for carrying on, in the Interim, a ſort of free Trade with their Settlements in that Part of the World; and farther we are told, that we could have no Occaſion for ſuch a Suſpenſion, becauſe we ſhall have a Squadron of Men of War there, that will be ſufficient to protect our Trade in the mean time. This is really ſomething extraordinary; we muſt not ſtipulate a Suſpenſion, becauſe the *Spaniards* would look upon it as a Stipulation for a free Trade with their Settlements; but we may compel it, by means of a ſuperior Squadron. My Lords, if they could have look'd upon a Stipulation for a Suſpenſion in ſuch a Light, will they not look upon our making uſe of a Squadron for ſuch a Purpoſe, as a compelling them to allow us a ſort of free Trade with their Settlements? And will not they look upon this as a Breach of this very Convention? Let us confeſs the Truth, my Lords, without any Subterfuge; they would grant us nothing that might in the leaſt derogate from any Right or Privilege they had a mind to make uſe of; therefore they refuſed granting us a Suſpenſion in this Caſe; but they granted us a Suſpenſion with regard to their Fortifications and Improvements in *Florida*, becauſe it was a Right they had no mind to make uſe of.

'I ſhall grant, my Lords, that a Man may have a Right to an Eſtate, and yet his Enjoyment of that Eſtate may be reſtrained by ſome Right or Servitude (which is a more proper Word than Privilege) granted to another; but can that Man's Right to his Eſtate be full and abſolute? Can that which is under a Servitude be ſaid to be free? My Lords, every Thing that limits or reſtrains the Enjoyment of a Right, muſt in ſo far diminiſh or deſtroy the Right itſelf. We have a Right to a Navigation and Commerce in the *American* Seas: We have a Right to a Commerce with the Continent and Iſlands of *America*. The firſt is abſolute and free. Upon thoſe Seas no Nation in the World can ſay to us, What doſt thou? But with regard to our Commerce with the Continent and Iſlands of *America*, it is reſtrained. By the Treaty in 1670, we obliged ourſelves not to carry on any Commerce with thoſe Places in *America* which are poſſeſſed by the *Spaniards*; and this was the Reaſon we, at that time, found ſo much Fault with that Treaty. Therefore we ought carefully to diſtinguiſh between thoſe two Rights. As to our Right of Navigation and Commerce in the *American* Seas, the *Spaniards* have no Right to limit or reſtrain it: I hope we ſhall never allow them, nor any Nation, to do ſo; though I am told the *French* have lately begun to uſurp ſuch a Right. As to our Commerce with the Continent and Iſlands of *America*, the *Spaniards* may reſtrain it: They may prevent our carrying on any Commerce in thoſe Places which they are in poſſeſſion of; but they can reſtrain it no farther: They have no Buſineſs, nor any Right, to enquire what we do in any Part of *America*, which they are not in actual poſſeſſion of. But if we approve of this Convention, and ſuch a definitive Treaty be concluded as may be expected, and dreaded, from ſuch a Preliminary, I do not know what Rights they may acquire. They may acquire the Right they pretend to; which is a Right to preſcribe to the Ships of *Great Britain* what Courſe they ſhall ſteer, and what Goods they ſhall carry, from one Part of the *Britiſh* Dominions to another.

'My Lords, it was a Conceſſion in us, to allow them to exclude the Subjects of this Kingdom from carrying on any Commerce in their *American* Dominions: It was thought too great a Conceſſion when it was firſt granted. But, I hope, no *Britiſh* Subject will ſay, that we ought, or can allow them to make any Regulations at Sea for preventing ſuch a Commerce; and therefore I was ſurprized to hear it ſaid, that we had not Time to ſettle ſuch Regulations, or to convince them of the Injuſtice of the Regulations they have made; for if they inſiſted upon making ſuch Regulations, or upon the Juſtice of thoſe they had made, the only proper Anſwer

Ann. 12 Geo. II. 1738-9.

was, a Declaration of War; and this, I am convinced, is what it muſt at laſt come to. But ſuppoſe there had been ſome Difficulty in the Caſe at firſt, have we not had Time enough to underſtand one another? Have we not been negotiating about the very Points now in diſpute between us, for Ten or a Dozen Years, without Intermiſſion? Could not we know, in all that Time, what *Spain* would do, or how far they would diſclaim the Rights they have lately uſurp'd upon us? My Lords, I am convinced ſome of our Negotiators do know: I am convinced they know, that *Spain* will grant us no Security, nor diſclaim any Right they have lately ſet up, unleſs they are forced to it by a vigorous War; and therefore, I muſt look upon this Convention as a mere Contrivance for putting off the Evil Day: An Expedient for this Seſſion; and the Prolongation of the Term hereby ſtipulated, will, I ſuppoſe, be an Expedient for the next, perhaps for two or three enſuing; during which the *Spaniards* will continue to plunder our Merchants, and interrupt our Trade, as uſual.

'Now, my Lords, with regard to the free Enjoyment of our Poſſeſſions and Privileges in *America*, the only Article that relates to it, is the 2d, and that relates only to *Georgia*; but how does it relate to it? By what, I am ſure, the *Spaniards* will call, giving it up. If the *Spaniards* pretended to diſpute Limits with us, it was a moſt ridiculous Thing in us to allow that Diſpute to be carried ſo far as to the *Southern*, perhaps near the moſt *Northern* Bounds of *North-Carolina*. It was the ſame as if we had ſat down to hazard, and had ſtaked *North-Carolina*, *South-Carolina*, and *Georgia*, againſt the inſignificant *Spaniſh* Fort called *Fort-Auguſtine*; for that is the only Fort or Settlement the *Spaniards* have in *Florida*. I ſhall grant, the Suſpenſion ſtipulated in this Article is mutual, but, my Lords, it is far from being equal. We ſuſpend fortifying or improving three large Countries or Provinces already planted, already greatly improved, already inhabited by numbers of our own People, and which we were reſolved to fortify and improve as faſt as poſſible. On the other Hand, the *Spaniards* are to ſuſpend fortifying and improving one ſingle Province, not ſo large as any one of our three, and that, a Country entirely Waſte, or inhabited only by ſuch as are their Enemies, except one little Fort, and a Country which they had no Intention either to plant, improve, or fortify. But is *Georgia* the only Poſſeſſion or Privilege we have in *America*, which the *Spaniards* now pretend to diſpute with us? Why is there no Mention made of our antient Settlement in *Campechey*? Of our Right to cut Logwood in the Bay of *Honduras*? Or of our Right to gather

ther Salt in the Iſland of *Tortugas?* Are theſe Poſſeſſions and Rights which are not worth contending for? Or are they to be given up, or relinquiſhed, for the ſake of an infamous Peace? It would ſeem ſo by this preliminary Convention; and therefore I muſt conclude, that, inſtead of ſtipulating any future Security for the free Enjoyment of our Poſſeſſions and Privileges in *America*, we have, tacitly at leaſt, given up by this Convention, every Poſſeſſion, every Right, every Privilege, which the *Spaniards* now pretend to diſpute with us in any Part of *America*.

'In lieu of theſe moſt extraordinary Conceſſions, one might expect, my Lords, that we had got the moſt ample, the moſt compleat Reparation for all the Damages we have ſuſtained, and all the extraordinary Expence we were put to; but we were too modeſt, it ſeems, to aſk any Re-imburſement of Coſts; and if the Payment ſtipulated by the third Article, which has been ſo much-boaſted of, be cloſely examined, and ſtripped of that artful Diſguiſe in which it is dreſſed up, we ſhall find, that we have given a free Diſcharge for all paſt Damages, without obtaining one Shilling of Reparation, except as to what relates to four or five Ships, which the King of *Spain* had ordered to be reſtored, before this Convention was thought of. But this has been put in ſo clear a Light, by the noble Lord that ſpoke laſt but one, that I need not enlarge upon it; and therefore, I ſhall only take notice of ſome things, that fell from the noble Lord that ſpoke laſt. He was pleaſed to tell us, that the *Spaniards* made a Demand of 5 or 600,000 *l.* upon us, and ſeemed highly to commend our Dexterity at Negotiation, in prevailing upon them to accept of 60,000 *l* in full of ſuch a high Demand. My Lords, if there was not the leaſt Pretence for ſetting up any Demand againſt us, we ought to have looked upon their ſetting up ſuch a Demand, as a freſh Inſult; and therefore, inſtead of allowing any Part of it, we ought to have rejected it with Contempt. The 95,000 *l.* ſtipulated in this Article, is, therefore, the only Sum we are to receive by way of Reparation; and of this Sum our own *South-Sea*-Company is to pay 68,000 *l.* For whatever the noble Lord may think of the King of *Spain*'s Proteſtation, as he declares, that under the Validity and Force of that Proteſt he ſigned this Convention, I am convinced he looks upon the Payment of that Money by our *South-Sea*-Company, as the Condition upon which alone he ſtands obliged to pay the 95,000 *l.* ſtipulated by this Article; and I will engage, that not one Shilling of the 95,000 *l.* ſhall be paid to us by the King of *Spain*, unleſs the 68,000 *l.* be firſt paid to him by our Company. Therefore, all the Reparation the King of *Spain* is

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to make, is the 27,000 *l.* which is the Difference between 95 and 68,000 *l.* And for this 27,000 *l.* his Catholic Majeſty, or his Subjects, are to retain Poſſeſſion of, and convert to their own Uſe, the five *Britiſh* Ships which he had before ordered to be reſtored; for, by the fourth Article of this Treaty, if any Part of any of theſe Ships has been, or ſhall be reſtored; it is to be deducted out of the 95,000 *l.*

'This, my Lords, is really ſuch a Juggle, ſuch a farcical ſort of Reparation, that I cannot but imagine, that when *M. de la Quadra* found our Negotiators willing to accept of it, he went ſmiling to his Maſter, and told him, he had got the *Engliſh* to accept of ſuch a ſham Reparation, as no *Indian* Nation in *America* would have been amuſed with. Well, ſays his Catholic Majeſty, what have you done with the Poltroons? Their Merchants are to have 155,000 *l.* in full for all the Depredations your Subjects have committed upon them for almoſt twenty Years paſt, anſwers the Miniſter. What, replies the Sovereign, 155,000 *l.* how can you pay it? For I will not give them one ſingle Farthing. No, no, ſays the Miniſter; 60,000 *l.* one Part of it, they are to raiſe by a Tax upon themſelves; 68,000 *l.* another Part of it, their *South-Sea*-Company is to give me, and I am to return it to ſuch Commiſſaries as they ſhall appoint, for diſtributing it among their Merchants; and for the remaining 27,000 *l.* they are to allow your Majeſty to keep the five Ships, and their Cargoes, which you had given Orders to reſtore: Now, as theſe Ships were certainly moſt unjuſtly taken, and more unjuſtly confiſcated, the Captors muſt now account to your Majeſty, inſtead of accounting to the *Engliſh*, for the full Value, which I reckon will amount to, at leaſt, 35,000 *l.* ſo that inſtead of your paying them any thing for Reparation, they have, in effect, paid you at leaſt 8000 *l.* for giving them the Pretence of a Reparation. My Lords, *M. de la Quadra* may have ſome private Reaſons for not looking upon our Negotiators as downright Fools; but, if we approve of ſuch a Reparation, I am ſure the *Spaniſh* Nation will have Reaſon to look with greater Contempt upon this, than upon any Nation of native *Indians* in *America*.

'After having thus ſhewn, that we have got no Reparation by this Convention, we need not, I think, my Lords, much trouble our Heads about the Value put upon our Loſſes by our Commiſſaries; but I think it ſufficient for diſcrediting their Report, that one of them who was examined at our Bar, could give no diſtinct Reaſon for reducing the Claim of our Merchants from above 400,000 *l.* to 200,000 *l.* If they had vouchſafed to have given us any Reaſons for ſuch an extraordinary Reduction, I am convinced it would have been

been eaſy to have ſhewn, that their Reaſons were frivolous; and till they do aſſign their Reaſons, every Man muſt ſuppoſe they had no Reaſon; for the Characters of our Merchants, who gave in their Claims, many of them, if not all, upon Oath, are as good as the Characters of our Commiſſaries. But, ſuppoſing the Reduction made by our Commiſſaries had been juſt, the Value of the five Ships mentioned in the fourth Article of this Convention, or at leaſt of the four laſt, could be no Part of the 200,000 *l.* at which they computed our real Loſſes; becauſe the four Ships laſt mentioned, were taken ſince our Commiſſaries returned from *Spain*; and the firſt mentioned, I mean the *Woolball*, was taken long after the Treaty of *Seville*, and could therefore be no Part of any of thoſe Pretenſions, that were referred to Commiſſaries by that Treaty. For this Reaſon, if the 95,000 *l.* to be paid by the King of *Spain* and our *South-Sea*-Company, had been looked on as a Reparation for that 200,000 *l.* only, we ought to have ſtipulated the entire Reſtitution of theſe five Ships, without allowing any Deduction from the 95,000 *l.* on account of that Reſtitution; but, in this Caſe, the King of *Spain* muſt have paid us out of his own Pocket 27,000 *l.* by way of Reparation for 200,000 *l.* which was, it ſeems, what he was reſolved not to do; and therefore, by this Article, we have allowed him to keep theſe five Ships, which he had before agreed to reſtore.

'This, my Lords, was, I ſhall allow, extremely complaiſant, and ſince we ſhewed ſo much Complaiſance to him in the Point of Reparation, he ſhould, I think, in good Manners, have ſhewed ſome Complaiſance to us in the point of future Security; but his Catholic Majeſty, it ſeems, in every Point, acted the Part of a ſtubborn, haughty *Spaniard*, and we, I do not know what. In former Days, my Lords, we uſed to be as ſtubborn as any of our Neighbours; and to ſhew that we were ſo, as the noble Lord that ſpoke laſt was pleaſed to mention the Treaty between *Oliver Cromwell* and the *Dutch*, I ſhall beg leave to examine that Treaty, becauſe the Circumſtances of the then Diſputes between us and the *Dutch*, were ſomething parallel to the Diſputes now ſubſiſting between us and *Spain*. The *Dutch*, 'tis true, had not for many Years before done us any Injury, nor had they any way interrupted our Trade; but in a former Reign, in which the only Maxim of Government was, That Peace was better than War, as it ſeems to be at preſent, the *Dutch* had done us a very heinous Injury, which had never been properly reſented; and they had begun to diſpute with us the Honour of the Flag. Therefore, our Demands upon the *Dutch* were, That they ſhould give us Satisfaction for the Inſult

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they had many Years before put upon us, Reparation for the Damage they had done, and Security for our future unmoleſted Enjoyment of that Right, called, The Honour of the Flag.

'How did *Oliver Cromwell*, my Lords, provide for theſe ſeveral Demands, by the Treaty he made with the *Dutch*? By the 27th Article it was expreſsly provided, 'That the 'United-Provinces ſhould take Care, that Juſtice be done 'upon thoſe who were Partakers or Accomplices in the Maſ'ſacre of the *Engliſh* at *Amboyna*, provided any of them be 'living.' I muſt obſerve, my Lords, that this Proviſo was neceſſary; becauſe this Maſſacre was perpetrated in the peaceable Reign of *James* I. above thirty Years before this Treaty. Then, with regard to Reparation, *Oliver*'s Negotiators did not lump it, as our preſent Negotiators have done by this Convention; no, my Lords, the Quantum of that Reparation was, by the 30th Article of the ſame Treaty, to be adjuſted by Commiſſaries, reſpectively appointed, who were to meet, not in *Holland*, but at *London*, and to determine it in three Months, or upon their Failure, it was referred to the Proteſtant *Swiſs* Cantons, who were to give Judgment within ſix Months; and we know that the *Dutch* actually paid a very large Sum of Money upon this Account. Laſtly, with regard to our future Security: Though it related to nothing but a Point of Honour, *Oliver* knew well the great Conſequence of a trading Nation's being jealous of its Honour; and therefore, he took Care nor to refer ſuch a Point to Commiſſaries; for by the 13th Article of that Treaty, it was expreſsly provided, 'That the Ships and 'Veſſels of the ſaid United-Provinces, as well thoſe of War 'as others, which ſhould meet any of the Men of War of 'the Republic of *England* in the *Britiſh* Seas, ſhould ſtrike 'the Flag to them, in the ſame Manner as was ever ob'ſerved at any Time before, under any former Govern'ment.'

'As to the 10,000*l.* mentioned by the noble Lord that ſpoke laſt, it was not paid on account of any Damage done to this Nation before the War commenced. It was paid, my Lords, on account of ſome *Engliſh* Ships, that had been ſeized and detained in the Dominions of the King of *Denmark*, after the Commencement of the War; and as they were ſeized at the Inſtances of the *Dutch*, *Oliver* inſiſted, that the *Dutch* ſhould make good the Loſs; and accordingly, by the 28th Article of the ſame Treaty, a Stipulation was made for this Purpoſe, which deſerves our particular Notice upon this Occaſion. By this Stipulation, the States General obliged themſelves, that thoſe Ships and Goods, which were remaining

remaining in Specie, together with the true Value of thoſe that had been ſold, embezzeled, or otherwiſe diſpoſed of, ſhould be reſtored within a Fortnight after the Arrival of thoſe who were to go to reclaim them; and alſo, that the Loſſes which had accrued to the *Engliſh*, by their being detained, ſhould be made good, according to an Appraiſement to be made by Commiſſaries therein named; which Commiſſaries were to meet on the 27th of *June*, a little more than two Months after the Ratification of the Treaty, at *London*; and after the firſt Day of *Auguſt* then next enſuing, unleſs they agreed before hand, they were to be ſhut up in a Room, ſeparate from all other Perſons, without Fire, Candle, Meat, Drink, or other Support, till they had agreed of the Matters to them referred. The States likewiſe obliged themſelves to pay 5000 *l.* within two Days after the Exchange of the Ratifications, to the Merchants, for the Expence of their Voyage to *Denmark*, to reclaim their Ships; and 5000 *l.* more, within ſix Days after their Arrival there, for refitting and repairing their Ships for their Return. And for the Performance of theſe Conditions, they farther obliged themſelves, that Bond ſhould be given by ſufficient Men, living here at *London*, for 140,000 *l.* The 10,060 *l.* mentioned by his Lordſhip was, therefore, only a Part of the Reparation that was to be made for this particular Damage; for we know, that the Commiſſaries, by their Award, dated the 31ſt of *July* that Year, the Day before they were to have been enclоſed, declared, that the whole Damage amounted to 97,973 *l.* which was accordingly paid at *London*, and diſtributed among thoſe concerned. Ann. 12 Geo. II. 1738-9.

'I wiſh, my Lords, our late Negotiators had read this Treaty: They might from thence have ſeen what was meant by Satisfaction, Reparation and Security; for, I think, I have now clearly ſhewn, that, by this Convention, we have obtained no Satisfaction, no Security, no Reparation, nor ſo much as a Promiſe for any one of them. On the contrary, we have, by this Preliminary, either expreſsly or tacitly, given every one of them up; and ſhall a *Britiſh* Parliament approve of ſuch a Treaty? Shall the *Britiſh* Nation hug itſelf in the precarious Enjoyment of ſuch an infamous Tranquillity? Where can a *Britiſh* Merchant go to carry on any Foreign Trade? What Foreign Port can a *Britiſh* Ship put into? They muſt expect to be inſulted, abuſed, and plundered, by every Nation they deal with; and under ſuch a Misfortune, can we expect to improve the Circumſtances of our Affairs, either at home or abroad? My Lords, by our late Conduct, we have brought ourſelves into a Neceſſity of going to War, let the Conſequence be

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never ſo fatal. A Man who ſubmits tamely to a ſmall Affront, is ſure to meet with a heinous one; and then he muſt fight; whereas, if he had reſented the firſt with Spirit, he might have obtained Satisfaction without Danger, and would have prevented his meeting with a ſecond. If we had properly reſented the firſt Injury we met with from *Spain*, if upon the firſt Inſult or Encroachment, we had peremptorily demanded Satisfaction, we might have obtained it by peaceable Means; but now it is become too weighty for Negotiation: We can find it only at the Point of our Sword; and there, I truſt in God, we ſhall ſtill be able to find both Satisfaction and Security.

'After what I have ſaid, my Lords, I think, I have no occaſion to conſider our Circumſtances, either at home or abroad; becauſe I have, I believe, made it appear, that a War is become unavoidable, unleſs we have a Mind to continue under ſuch an infamous Peace, as muſt render our Circumſtances every Day worſe and worſe. Nor do I think, that, upon the preſent Queſtion, I have any occaſion to enquire into the Cauſe of the preſent Situation of the Affairs of this Nation, or of *Europe*; but if it were neceſſary, I believe, I could ſhew, that it is entirely owing to the Meaſures we have followed for almoſt theſe twenty Years. I could ſhew, that the ſame Conduct, which has now at laſt made a War unavoidable, has rendered us almoſt incapable of carrying it on with Vigour or Succeſs; but thank God, we are not yet altogether ſo: This Nation has many and great Reſources; and if they are put under a right Conduct, we may ſtill be able to recover our Friends, and revenge ourſelves of our Enemies; therefore, I hope, no Man will ſo far deſpair, as to appove of any Preliminary, that may lead us into an infamous Treaty of Peace.'

The Earl of *Iſla*.

The Earl of *Iſla*,

'My Lords, whatever Influence Wit or Eloquence may have upon this Aſſembly, however improper it may be to make uſe of either in this Houſe, it muſt be acknowledged, that a great deal of both has been made uſe of upon this Occaſion; and I muſt ſay, that in this Debate, a ſort of Eloquence has been made uſe of, which may be frequent at a certain Place at t'other End of the Town, but cannot, I am ſure, be ſaid to be either proper or decent in this Aſſembly; for a great many very harſh Epithets have been given to the Convention now before us, which, conſidering the Place where we are, I think, 'twould have been better to have let alone, even though the Convention had

had been as bad as it has been repreſented; but 'twill be found, I believe, upon a ſerious Examination, that they are ſuch as it no way deſerves. By endeavouring to ſhew this, I do not know, but that, in the Humour ſome Lords ſeem to be at preſent, I may be called an Advocate for *Spain*, as well as ſome other Lords who have ſpoke before me, upon the ſame Side of the Queſtion; but whatever I may be called, either within Doors or without, I am reſolved, while I ſit here, to ſpeak my Sentiments freely, and to declare openly, what, I think, will conduce moſt to the Service of my King, and the Good of my Country. This is my Duty, this is the Duty of every Member of this Houſe, and therefore, I think it as wrong to affect Popularity upon any Occaſion, by chiming in with thoſe Prejudices which may have been accidentally taken up, or artfully raiſed, among the People, as it is to ſhew a blind or a ſlaviſh Complaiſance to the Miniſters of the Crown. Ann 12. Geo. II. 1738-9.

'Whether we have got a proper Satisfaction, or a full Reparation, for the Injuries that have been done to us, are Queſtions that have been ſo fully ſpoke to by the noble Lords who have already ſpoke in Favour of this Convention: By them it has been ſo clearly demonſtrared, that we could not expect, nor ought to have inſiſted upon greater Satisfaction or Reparation, from a Nation whoſe Friendſhip we ought to court, that it would be vain, if not arrogant in me, to attempt to ſet that Matter in a clearer Light. Beſides, my Lords, there are Articles, which in all Negotiations admit of a little yielding or ſoftning, and particularly in our Negotiations with *Spain*, we ought never to allow them to be of any extraordinary Weight. If we can get the other Diſputes, which now ſubſiſt between *Spain* and us, adjuſted to our Satisfaction: If we can obtain a reaſonable Security for the future unmoleſted Enjoyment of our Navigation and Commerce in the *American* Seas, I think it would be very prudent in us to yield a little upon the Head of Satisfaction and Reparation: At leaſt, I muſt think it would be imprudent in us to engage in a War with *Spain*, and at this Juncture too, for the ſake of having a *Spaniſh* Governor, or Captain of a *Guarda Coſta*, hanged, as many of them certainly deſerve for their Behaviour towards us; or for the ſake of obtaining 50, or even a 100,000 *l.* more, for making good the Damages our Merchants have ſuſtained.

'The Article of Search or no Search, is therefore that which we ought principally to regard in our preſent Conteſt with *Spain*; and this, my Lords, I muſt obſerve, is a mutual Claim. We pretend to a Right of ſearching the Ships,

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even of Foreigners, upon our own Coaſts, as well as the *Spaniards* do upon theirs, eſpecially when there are Grounds to ſuſpect, that any ſuch Ship has been employed, or is going to be employed, in carrying on an unlawful Trade with our Subjects, or in our Dominions. It is a ſort of Liberty we take, it is a ſort of Liberty every Nation takes, *Hanc petimus damuſque viciſſim*; and neither the *Spaniards* nor we have given it up, by referring it to be regulated by Plenipotentiaries. Nay, even in the open Seas, in the middle of the wide Ocean, if one of our Men of War ſhould, upon viſiting a Ship they meet with, find cauſe to ſuſpect, that her Paſſports or Sea-letters were forged, or ſhould find cauſe to ſuſpect from what they ſaw on Board, that the Ship had been concerned in any piratical Practices, I believe they would take the Liberty to break through the Rules preſcribed by Treaties for viſiting Ships at Sea, and would ſearch ſuch a Ship, in order to diſcover whether their Suſpicions were well or ill grounded. This is a Liberty which the armed Ships of every Country take, even upon the high Seas; it is a Liberty which every Country muſt indulge to another, for the ſake of diſcovering and apprehending Pirates; therefore, it is a Liberty that no Nation can complain of, unleſs when it is turned to a bad Uſe, and then it is not the Right or Liberty, but the Uſe made of it, that affords a juſt Cauſe of Complaint.

'The Liberty of ſearching the Ships of Foreigners upon the high Seas, on Suſpicion of Piracy, is a Liberty that is eſtabliſhed and regulated by the Law of Nations alone; but the Liberty which every Nation enjoys, of ſearching, on Suſpicion of unlawful Trade, the Ships of Foreigners that approach near to their Coaſts without any Neceſſity, is a Liberty that is not only eſtabliſhed by the Law of Nations, but is generally regulated by the particular Laws or Cuſtoms of each reſpective Society. In this Country it is eſtabliſhed and regulated, not only by immemorial Cuſtom, but by ſeveral Acts of Parliament; and it is impoſſible for us, by any Precautions we can take at land, to prevent the Exportation of our Wool, the Importation of prohibited Goods, or the clandeſtine Running of Goods in upon us without paying the Duties, unleſs we take the Liberty of ſearching ſuch Ships, upon our own Coaſts, as give juſt Cauſe to ſuſpect their being concerned in, or deſigned for, ſome ſuch unlawful Trade. This, my Lords, has been found by Experience to be true; and therefore by an Act of the 10th and 11th of the late King *William*, it was provided, 'That 'our Admiralty ſhould appoint two Fifth Rate, and two 'ſixth Rate Ships, and eight armed Sloops, to cruize on the

'Coaſts

'Coasts of *England* and *Ireland*, to seize all Ships and Ves- Ann. 12 Geo. II.
'sels exporting Wool to foreign Parts.' Now, my Lords, 1738-9.
if any of the Men of War, or armed Sloops thus employed, should see a *French* Ship hovering, or lying at Anchor within a few Leagues of our Shoar, and Boats passing and repassing between her and the Land, are we to suppose that they are only to visit such Ship, according to the Rules prescribed by Treaty, and to give entire Credit to her Passports, or Sea-letters? If they did, they would always find her bound from some Port of *France*, to some Port in *Norway* or the *Baltic*; or from some Port in *Norway* or the *Baltic*, to some Port of *France*; yet, nevertheless, she might be half loaded with our Wool, and waiting at that Place for the rest of her Cargo; therefore, in such Cases, it is absolutely necessary to make some sort of Search, and we have always done so, without any Nation's having complained of our making, by such a Practice, any Encroachment upon the Freedom of their Navigation and Commerce.

'The Case, my Lords, is the same with regard to Smuggling: It was found by Experience, that all the Precautions we could take at Land, could not prevent that pernicious Trade, and therefore we have, by several Acts of Parliament, enforced and regulated the Right we have by the Law of Nations, of searching, as well as visiting, such Foreign Ships as approach our Coasts, and give just Cause for suspecting their being concerned in, or designed for carrying on any contraband Trade. For this Reason, we ought to be cautious of denying this Liberty or Privilege to any Nation; for if we do, every Nation in *Europe* will say to us, *With what Measure ye mete, it shall be measured to you again:* As you will not allow us to search your Ships upon our Coasts, we will not allow you to search our Ships upon your Coasts; and if by this Means we should be debarred searching any Foreign Ship upon our own Coasts, it would be impossible for us to prevent Smuggling, or the Exportation of our Wool. Not only the *Dutch* and *French*, but all Nations that had any Use for it, would soon fall upon Ways and Means to steal away from us as much of our Wool as they could have occasion for, to the great Prejudice, if not the utter Ruin of our Woollen Manufacture.

'This, my Lords, would be a much greater Loss to us, than the exporting of Gold or Silver from *Spain*, or from the *Spanish* Settlements in *America*, can be to that Nation. For in their present Circumstances, it is ridiculous in them to prohibit the Exportation of that Commodity. If they could make their Prohibition effectual: If they could absolutely prevent the Exportation of Gold or Silver from any

Part

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Part of their Dominions, they would, in their preſent Circumſtances, ſoon come to be like *Midas* in the Fable: Many of them would have nothing to eat, drink, or cloath themſelves with, but Gold or Silver; and then they would be glad to give every Nation a Licence to export both the one and the other, in order to have thoſe Neceſſaries and Conveniencies of Life they ſtand in need of, and cannot have in their own Dominions. This we know to be often the Caſe of ſome of their Settlements in *America*; and when it is, their Governors always ſend Licences to ſome of our Plantations, not only to come and trade in the *Spaniſh* Settlements, but to export Gold and Silver, and whatever elſe they pleaſe to take, in return for the Proviſions or Neceſſaries they carry thither.

'But with regard to our Wool, my Lords, the Caſe is very different. It is a Commodity much more valuable than Gold or Silver; becauſe it is a Commodity abſolutely neceſſary, or, at leaſt, extremely convenient, for all Nations that live at any Diſtance from the Torrid Zone; and as it muſt be manufactured before it can be fit for Uſe, a great many induſtrious and faithful Subjects are always employed in that Manufacture. Now, as we do not prohibit the Exportation of it when manufactured, but, on the contrary, encourage it, as much as we can, the Exportation of it, when fully manufactured, will, I hope, be always ſufficient for furniſhing us with every Thing we ſtand in need of, for Luxury, as well as Neceſſity and Conveniency, from any Country in the World; therefore we can never be under any Neceſſity to export it unmanufactured; and as none of our Neighbours can carry on Woollen Manufactures, eſpecially thoſe of the Middling Sort, without having ſome of our Wool to mix up with their own, as the manufacturing for our Neighbours, as well as ourſelves, muſt employ a great many more Hands, and bring a greater Advantage to the Nation, than if we were to manufacture for ourſelves alone, we ought to take all poſſible Methods for preventing the Exportation of this Commodity, till it has been fully manufactured by our own People.

'This, my Lords, ſhews the Wiſdom of thoſe Regulations we have made both by Land and Sea, for preventing the Exportation of our Wool; and, at the ſame time, it muſt ſhew how unwiſe it would be in us, to introduce, among the Nations of *Europe*, any political Maxim, which, if we were obliged to obſerve it ourſelves, might render it extremely difficult, if not altogether impoſſible, for us, to prevent our Wool's being ſtolen away from us; and that this would be the Conſequence, if we were to abſtain from ſearching any

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Foreign Ship upon our Coasts, Experience itself must convince us. But this, my Lords, is not the only Inconvenience we should be liable to at present, if we should be obliged to give up, or pass from this Right of searching Ships upon our own Coasts; for while our present high Duties continue upon all Foreign Goods imported, it would be impossible for us to prevent Smuggling, without the Exercise of this Right; and if we take such a Liberty with the Ships of neighbouring Nations upon our Coasts, we must allow them to take some such Liberty with our Ships upon their Coasts; otherwise, we may run the Risk of uniting all the Powers of *Europe* in an Association against us.

'For this Reason, my Lords, the Question, Whether we ought to allow the *Spaniards* a Right or Privilege to search, upon just Grounds of Suspicion, any of our Ships that shall approach their Coasts without Necessity, seems to be a Question that may admit of some Sort of Difficulty. They may insist upon it, as a Right derived to them from the Law of Nations, and confirmed by our own Practice in similar Cases; and it is a Privilege which we may allow them, without acknowledging that they have any thing like an *Imperium Maris*, with regard to the Seas of *America*. As for this *Imperium Maris*, or Dominion of the Seas, there may be some such Thing, for what I know: I believe we have a just Pretence to such a Dominion, with regard to the *British* Seas; but I must observe, that a very great Author has said, *That it is rather to be imagined than explained.* It is a Subject that has employed the Pens of many learned and ingenious Men; but they differ so much from one another, and sometimes from themselves, that there is no Possibility of forming a certain and distinct Notion of it from what they have wrote upon the Subject. They have divided and subdivided it a great many different Ways; which it would be needless, as well as tedious, to give an account of; but the most material Division I have taken Notice of, is that by which it has been divided into *Imperium proximum* and *Imperium remotum*; the former being that *Imperium* which a Nation may acquire, and every Nation pretends to, upon what they call their own Coasts; and the latter, that which a Nation may acquire upon what we call the open Seas, either by Treaty, or by the tacit Concession and long Sufferance of its Neighbours.

'But here again, my Lords, a new Difficulty occurs; for, what may be called the Coasts, or what may be called the open Seas, is a Question that is not determined by the Authors that have wrote upon the Subject, nor has it lately been determined by Treaty, so far as I know, between any two Nations in *Europe*. The greatest Authority I can think of, that

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that can any Way be made uſe of for determining this Point, is that famous Decree or Reſolution of the Senate of *Rome*, by which they gave to the great *Pompey* the Command or Government of the Sea, for ſuppreſſing thoſe Pirates that then infeſted the *Mediterranean*; for, as by that Decree they extended his Command or *Imperium* as far as four hundred *Stadia*, which is about thirteen or fourteen Leagues, over the whole Continent or Land adjoining to the Sea, it may be ſuppoſed, they reckoned that the Sea-Coaſt, which always includes Land as well as Sea, extended fourteen Leagues up the Country, and conſequently fourteen Leagues out at Sea. But no modern Nation will, I believe, admit that what we now call Sea-Coaſt, can be either Way ſo far extended.

'Having thus ſhewn what the *Spaniards* may ſay in Favour of the Right or Privilege they pretend to have of Searching, as well as Viſiting our Ships, upon what they call their Coaſts in *America*, when ſuch Ships, by their approaching too near, or by other Tokens, give Cauſe to ſuſpect, that they are concerned, or deſigned to be concerned in ſome illicit Trade; I ſhall now, my Lords, endeavour to ſhew what may be ſaid on our Side. With regard to any Liberty or Privilege we may take with the Ships of Foreigners ſailing upon the *Britiſh* Seas, we may juſtly ſay, my Lords, that no Argument can, from hence, be drawn in Favour of any Right the *Spaniards* may pretend to in the Seas of *America*; becauſe we have an *Imperium* or Dominion over the *Britiſh* Seas, eſtabliſhed to us by Cuſtom immemorial, and acknowledged by almoſt all the Nations of *Europe*: Whereas the *Spaniards* can pretend to no ſuch *Imperium* over the *American* Seas, nor ought we to allow them to exerciſe any Liberty or Privilege that may be a Foundation for their claiming ſuch an *Imperium* in any future Time. Then, with regard to what may be called the Sea-Coaſt of any Country, we may ſay, that, by the Law of Nations, nothing ought to be called Sea-Coaſt that is within the common Courſe of Sailing from one Country to another; and that therefore nothing but Creeks or ſmall Bays ought to be reckoned within the Sea-Coaſts of any Country, or ſuch Places in the Sea which are ſo land-lock'd that no Ship would chuſe to get within them, unleſs ſhe drove thither by Streſs of Weather, or has ſome other Deſign than that of ſailing along the Coaſts of that Country. This, I ſay, my Lords, we may inſiſt on as the general Rule for determining what may be called the Sea-Coaſts of any Country; and this ought to be the Rule in the *American* Seas, eſpecially within the Tropics, rather than any other, becauſe the Winds

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and Currents in that Part of the World, not only make Ships chuſe, but even force them to ſail along, almoſt cloſe in with the Shore of ſome of the Iſlands or Continent of *America*, as has been extremely well explained by a noble Lord, who ſpoke ſome time ſince upon the other Side of the Queſtion. Ann. 12 Geo. II. 1738-9.

'To this, my Lords, we may add, that tho' an *Imperium* or Dominion may be acquired over ſome Seas, or ſome particular Parts of the Ocean, yet that Dominion, like Property in Lands, muſt be acquired by ſome Overt-Acts, which declare the Intention of the Poſſeſſor, and the Ceſſion or Reſignation of the reſt of Mankind; and as no ſuch Overt-Acts have ever been done by the *Spaniards*, and peaceably ſubmitted to for any time by other Nations, in the Seas of *America*, therefore thoſe Seas ought to be look'd on as a large Common, lying between the *Spaniſh* Dominions and ours, no Part of which they can appropriate, nor aſſume any Juriſdiction over it, without our Conſent; and I am ſure we may juſtly ſay, that the late Behaviour of ſome of their *Guarda Coſtas*, and the Delays we have met with in obtaining Juſtice from their Court, have given us a very good Reaſon, never to allow them to aſſume the leaſt Degree of Juriſdiction in any Part of the *American* Seas, where our Ships may be obliged, or have Occaſion to ſail.

'From what I have mentioned, my Lords, of the Arguments that may be made uſe of upon both Sides of the Queſtion, I believe it will appear, that the real Diſpute between *Spain* and us, I mean that which is of the greateſt Conſequence, is not about our Right to a free Navigation and Commerce in the *American* Seas, but about their Right to ſearch Ships upon what may be called their own Coaſts. The Right to be regulated by the Plenipotentiaries, reſpectively appointed by this Preliminary, is not our Right to a free Navigation and Commerce in thoſe Seas, but their Right to do what every Nation does, I mean, to viſit, and even to ſearch, upon juſt Cauſe of Suſpicion, ſuch Ships as come within what may be called their Sea-Coaſts; and it is their late Behaviour, not ours, that makes the regulating of this Right neceſſary. They have lately extended what they call their Sea-Coaſts ſo far out in the Ocean, and they have ſearched ſo many of our Ships without Cauſe of Suſpicion, and confiſcated ſo many of them without any Pretence of Juſtice, that it is become neceſſary to lay them under ſome Reſtraints or Regulations; and theſe Reſtraints and Regulations are to be ſettled and agreed on by the Plenipotentiaries reſpectively appointed. That they have Sea-Coaſts in *America*, is what no Man will deny; and that they have ſome

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Sort of Power or Juriſdiction over thoſe Sea Coaſts, is what I think, can be as little denied. Nay, we ſeem to have acknowledged it by Treaty; for as our *South-Sea* Company got, by the *Aſſiento*-Treaty or Contract, the ſole Privilege of introducing Negroes into the *Spaniſh* Settlements in *America*, it was by the 18th Article of that Treaty agreed, 'That when the *Aſſientiſts* ſhould have Notice that any Ship 'with Negroes (not belonging to them) was come upon the 'Coaſt, or entered into any Port, they might fit out, arm, 'and ſend out immediately ſuch Veſſels as they ſhould have 'of their own, or any others belonging to his Catholic Majeſty, 'or his Subjects, with whom they ſhould agree, to take, ſeize, 'and confiſcate ſuch Ships and their Negroes, of whatever 'Nation or Perſon they might be, to whom the ſame ſhould 'belong; to which end the ſaid *Aſſientiſts*, and their Factors, 'ſhould have Liberty to take Cognizance of, *and ſearch all 'Ships and Veſſels that ſhould come upon the Coaſts of* India, 'or into its Ports, in which they ſhould have reaſon to be'lieve, or ſuſpect, that there were contraband Negroes. Pro'vided always, that for the making of ſuch Searches, Viſits, 'and other Proceedings before mentioned, they ſhould firſt 'have Leave from the Governors, to whom they ſhould com'municate what occurred, and deſire them to interpoſe their 'Authority.'

'Theſe, my Lords, are the Words of the Treaty; and if the Court of *Spain* could delegate a Power to our *South-Sea* Company to ſearch ſuch Ships as came upon the Coaſts of *India*, in which they ſhould ſuſpect they were contraband Negroes, as by our accepting of this Article, we have acknowledged they could, ſurely we muſt allow, that they have a Power to ſearch ſuch Ships as come upon the Coaſts of *India*, in which they may ſuſpect there are any other ſort of contraband Goods; by which I mean, and by which they can only, with any Juſtice or Propriety, mean, ſuch Goods as are deſigned to be imported into, or have been exported from, their Settlements in *India*, contrary to the excluſive Privilege enjoyed by the Subjects of *Spain*, and confirmed to them by the Treaties ſubſiſting between them and us. This Power, my Lords, I ſay, we muſt allow them; but we muſt not allow them to make a bad uſe of it, or to extend what they call their Coaſts, ſo far as may give their *Guarda-Coſtas* a Pretence to interrupt our lawful Trade or Commerce in thoſe Seas; and as they have done ſo for ſome Time paſt, it is become neceſſary for us to lay this Power under ſuch Regulations, as may prevent ſuch Practices in Time to come: This, I hope, will be done by the definitive Treaty that is to be concluded; but as the contriving and

settling these Regulations required a most mature and serious Deliberation, it could not be done so as to make them a Part of this Preliminary Treaty; and therefore it was necessary to refer this Matter to the Plenipotentiaries. Ann. 12 Geo. II. 1738-9.

'What Liberty we may allow to the *Spaniards*, with regard to searching our Ships at Sea, or upon what they call their own Coasts, or whether or no we ought to allow them any such Liberty, or if we do allow it, what Restraints and Regulations it ought to be subjected to, are Questions, my Lords, that cannot, I think, come before us upon this Occasion: All I design by what I have said upon this Head, is to shew, that the Dispute between the *Spaniards* and us about search or no search, is of such a Nature, that it could not be immediately determined. If we had been at War with *Spain*, and had reduced them to such Distress, that they must have agreed to any Thing we thought fit to propose, the Dispute might have been easily ended; because, as it would be our Interest to have a free Trade to the *Spanish* Settlements in *America*, as we shall always reap the more Advantage, the more Trade our Subjects have with them, therefore if we cannot obtain a free Trade, it is our Interest not to admit of any Thing that may prevent or obstruct an illicit Trade; and for this Reason, if we had prevailed so far as to have the drawing up of the Articles of Peace, if the *Spaniards* had been forced to present us with a *Carte Blanche*, we ought certainly to have stipulated no search any where but in their Ports or Harbours, when our Ships happened to be forced in there by Sea-Distress. But this, my Lords, was not our Case when this Treaty was negotiated: We were treating upon equal Terms: We were negotiating to prevent a dangerous War, and not to put an end to a successful one; and in these Circumstances it was impossible for us to adjust and finally settle a Dispute of such a Nature in so short a Time. If it be finally adjusted and settled in the eight Months prescribed by this Preliminary, I shall think it something very Extraordinary; and if at last all the Disputes now subsisting between *Spain* and us are adjusted to our Satisfaction, I shall then think that we may justly apply to one Person in this Kingdom, what was said of the great *Fabius* at *Rome*, *Cunctando restituit Rem.*

'I know, my Lords, it would have been more glorious, and would have look'd more like great Courage and Magnanimity, to have attack'd the *Spaniards* directly, without so much as asking, whether they were willing to give us Satisfaction: If we had done so, the *Spaniards* could not with justice have complained of us, nor could they have said, we treated them otherwise than they deserved; but I cannot

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think it would have been prudent, nor do I think it would have been acting like Men that had a due Regard to the Proſperity and Happineſs of their Country. Wars and Victories, my Lords, make a fine Figure in Hiſtory, or even in a News-Paper: We ſtill read with Pleaſure the Romantic Accounts of our Wars and Battles in *France*, when our Kings were waſting the Subſtance, and ſpilling the Blood of their Subjects, in queſt of that which would have ruined their Country, if they had met with the wiſhed-for Succeſs; we likewiſe read with Pleaſure, an Account of our late Campaigns in *Flanders*, *Germany* and *Spain*, when we were running ourſelves ſeveral Millions in Debt yearly, for the ſake of conquering Kingdoms and Provinces for thoſe, who have not ſince ſhewed themſelves very grateful for the Favours we then ſo bountifully beſtowed; and if we had now run ourſelves headlong into a War with *Spain*, we ſhould probably, if they had been aſſiſted by none of their Neighbours, have had the ſame Succeſs we have formerly met with in our Wars againſt that Nation: The taking of ſome of their *Galleons* or *Flota*, the Plundering ſome of their Towns upon the Sea-Coaſt in *Europe*, or the taking or plundering ſome of their Settlements in *America*, would have furniſhed our *Gazettes* with excellent Paragraphs for the Entertainment of the preſent Age, and our Hiſtories with fit Matter for the Amuſement of future Generations; but, upon balancing Accounts, we ſhould have found, I believe, that the Profit would not anſwer the Charge; and that we had done better to have accepted at firſt of a reaſonable Satisfaction in a peaceable Manner. In the mean Time, our Trade would have been interrupted, our People oppreſs'd with Taxes, many of our Merchants ruined by Captures, and Multitudes of Tradeſmen drawn away from uſeful Labour and Induſtry; for it was well obſerved by a celebrated Clergyman, who was appointed to preach at St. *Paul*'s upon the Peace of *Utrecht*, That thoſe Times which are the beſt to read of, are far from being the beſt to live in.

'It was, therefore, I think, my Lords, the wiſeſt Courſe, to try firſt what could be done by Negotiation; and as there is nothing in this Preliminary that is either ſcandalous, or inconſiſtent with any of the Rights or Privileges of this Nation; as we have got all that could be expected in ſo ſhort a Time; and as the Time ſtipulated for concluding a definitive Treaty is but very ſhort, I muſt think, it was right to accept, in the mean Time, of this Preliminary. If the Court of *Spain* ſhould refuſe, or unreaſonably delay giving us entire Satisfaction by a definitive Treaty, within the Time limited by this Preliminary, we muſt go to War; we ſhall then

then be able to excuſe or juſtify ourſelves in our own Minds, let the Event of that War be what it will; becauſe of two Evils, the leaſt is certainly to be choſen. Our Trade cannot ſuffer much in the mean Time, the Circumſtances of Affairs in *Europe* cannot become more unfavourable than they now are, nor can it be ſuppoſed that we ſhall be weaker, or *Spain* ſtronger, eight Months hence, than at preſent. For theſe Reaſons, my Lords, I think we cannot well refuſe to give our Approbation of this Preliminary, in thoſe general Terms the noble Lord has propoſed; and therefore I ſhall be for agreeing to the Motion he has been pleaſed to make.'

At laſt the Queſtion was put, and carried in the Affirmative, upon a Diviſion of Lords in the Houſe 71 Contents, to 58 Not-contents; and of Proxies 24 Contents, to 16 Not-contents. Whereupon the following Addreſs was agreed to, and preſented accordingly, *viz.*' Diviſion upon the Queſtion.

Moſt gracious Sovereign,

'WE your Majeſty's moſt dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament aſſembled, beg leave to return your Majeſty our moſt humble thanks for your gracious Condeſcenſion, in laying the Convention between your Majeſty and the King of *Spain*, dated the 14th Day of *January* laſt, N. S. together with the ſeparate Articles, before this Houſe. Lords Addreſs, and his Majeſty's Anſwer.

'We think it our indiſpenſable Duty, on this Occaſion, to expreſs our juſt Senſe of your Royal Care of the true Intereſts of your People; and to acknowledge your Majeſty's great Prudence, in bringing the Demands of your Subjects for their paſt Loſſes, which have been ſo long depending, to a final Adjuſtment by the ſaid Convention; and procuring an expreſs Stipulation for a ſpeedy Payment; and in laying a Foundation for accompliſhing the great and deſirable Ends of obtaining future Security, and preſerving the Peace between the two Nations.

'We beg leave alſo to declare to your Majeſty, our Confidence and Reliance on your Royal Wiſdom, and ſteady Attention to the Honour of your Crown, and the Welfare of theſe Kingdoms; that in the Treaty to be concluded in purſuance of this Convention, proper Proviſions will be made for Redreſs of the Grievances ſo juſtly complained of; and particularly, that the Freedom of Navigation and Commerce in the *American* Seas, to which your Majeſty's Subjects are entitled by the Law of Nations, and by virtue of the Treaties ſubſiſting between the two Crowns, will be ſo effectually ſecured

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ſecured, that they may enjoy, unmoleſted, their undoubted Right of navigating, and carrying on Trade and Commerce from one Part of your Majeſty's Dominions to any other Part thereof, without being liable to be ſtopp'd, viſited, or ſearched, on the open Seas, or to any other Violation or Infraction of the ſaid Treaties; the mutual Obſervance thereof, and a juſt Regard to the Privileges belonging to each other, being the only Means of maintaining a good Correſpondence, and laſting Friendſhip between the two Nations.

'Permit us at the ſame Time, in the moſt dutiful Manner, to expreſs to your Majeſty, our firm Dependance, that in the Treaty, to be concluded in purſuance of the ſaid Convention, the utmoſt Regard will be had to the Rights belonging to your Majeſty's Crown and Subjects, in adjuſting and ſettling the Limits of your Majeſty's Dominions in *America*; and to give your Majeſty the ſtrongeſt Aſſurances, that, in caſe your Majeſty's juſt Expectations ſhall not be anſwered, this Houſe will heartily and zealouſly concur in all ſuch Meaſures, as ſhall be neceſſary to vindicate your Majeſty's Honour, and to preſerve to your Subjects the full Enjoyment of all thoſe Rights, to which they are entitled by Treaty, and the Law of Nations.

To which his Majeſty returned the following moſt gracious Anſwer, *viz.*

'My Lords, I thank you for this dutiful Addreſs, and for the grateful Senſe you expreſs of my Care of the true Intereſts of my People. You may depend upon it, that I have the Honour of my Crown, and the Welfare of my Kingdoms entirely at Heart; and that nothing ſhall be wanting on my part, to ſecure to my Subjects the full Enjoyment of their Navigation and Commerce, and their other juſt Rights.'

The Speakers for and againſt the Addreſs were as follows, *viz.*

Speakers for and againſt the Addreſs.

For the Addreſs.	Againſt the Addreſs.
1 The Earl of *Cholmondeley*, who moved for it.	2 The Lord *Talbot*.
3 The Duke of *Newcaſtle*.	4 The Lord *Cartaret*.
5 The Biſhop of *Saliſbury*.	6 The Duke of *Bedford*.
8 The Lord High-Chancellor.	7 The Duke of *Argyle*.
10 The Lord *Hervey*.	9 The Earl of *Cheſterfield*.
12 The Earl of *Iſla*.	11 The Lord *Bathurſt*.

And

And the following is a Liſt of the Lords who voted upon this Occaſion, *viz.*

For the Addreſs In the Houſe.	Againſt the Addreſs In the Houſe.
The Lord High-Chancellor.	His Royal Highneſs the Prince of *Wales*.
The Dukes of	The Dukes of
Ancaſter,	*Argyle*,
St. Albans,	*Beaufort*,
Athol,	*Bedford*,
Buccleugh,	*Bridg-water*,
Devonſhire,	*Leeds*,
Dorſet,	*Rutland*.
Grafton,	
Kent,	The Earls of
Kingſton,	
Mancheſter,	*Briſtol*,
Marlborough,	*Burlington*,
Montagu,	*Cheſterfield*,
Newcaſtle,	*Coventry*,
Portland,	*Gainſborough*,
Richmond.	*Graham*,
The Marquiſs of *Lothian*.	*Huntington*,
	Ker,
The Earls of	*Litchfield*,
	Macclesfield,
Albemarle,	*Northampton*,
Cholmondeley,	*Oxford*.
Cowper,	*Peterborough*,
Dartmouth,	*Rockingham*,
Dunmore,	*Scarborough*,
Effingham,	*Shafiſbury*,
Eſſex,	*Stanhope*,
Finlater,	*Strafford*,
Fitzwalter,	*Suffolk*,
Godolphin,	*Thanet*,
Halifax,	*Weſtmoreland*,
Harborough.	*Winchelſea* and *Nottingham*.
Hyndford,	
Jerſey,	The Viſcounts.
Iſla,	
Loudon,	*Cobham*,

Voters for and againſt it.

For

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For the Addreſs.	Againſt the Addreſs.
Malton,	*Falmouth,*
Pembroke,	*Lonſdale,*
Rochford,	*Townſhend.*
Warwick,	
Wilmington.	The Barons of
The Viſcounts,	*Bathurſt,*
	Boyle,
Falconberg,	*Bruce,*
Harcourt,	*Carteret,*
Lymington,	*Clifton,*
Torrington.	*Clinton,*
	Craven,
The Barons of	*Foley,*
	Gower,
Abergavenny,	*Haverſham,*
Cadogan,	*King,*
Cathcart,	*Maſham,*
Cornwallis,	*Maynard,*
Delawar,	*Mountjoy,*
Ducie,	*North,*
Harrington,	*Raymond,*
Hay,	*Rumney,*
Hervey,	*Talbot.*
Hobart,	
Lovel,	The Biſhops of
Monſon,	
Onſlow,	*Glouceſter,*
Pawlet,	*Lincoln,*
Walpole.	*Litchfield,*
	Oxford.
The Archbiſhop of *Canterbury.*	Proxies.
The Biſhops of	The Duke of *Somerſet.*
	The Earls of
St. Aſaph,	
Bangor,	*Berkſhire,*
Briſtol,	*Bute,*
Chicheſter,	*Carliſle,*
St. David's,	*Denbigh,*
Durham,	*Derby,*
Landaffe,	*Exeter,*
Norwich,	*Warringeon.*
Roche ſter,	

For

For the Addreſs.

Saliſbury,
Wincheſter.

Proxies.

The Duke of *Chandos.*

The Earls of

Broadalbin.
Crawford,
Grantham,
Hopton,
Leiceſter,
Pomfret,
Portmore,
Powlett,
Radnor,
Selkirk,
Southerland,
Tankerville,
Walgrave,

The Viſcount *Say* and *Seal.*

The Barons of

Hunſdon,
Percy,
Trevor.

The Archbiſhop of *York.*

The Biſhops of

Bath and *Wells.*
Ely,
Exeter,
Hereford,
London.

Againſt the Addreſs.

The Viſcount *St. John.*

The Barons of

Barnard,
Dudley and *Ward,*
Griffin,
Middleton,
St. John,
Eveſton.

The Biſhop of *Carliſle.*

Upon this Queſtion's being approved of, the following Proteſt was entered in the Journals of that Houſe, *viz.*

Proteſt on this Occaſion.

Ann. 12 Geo. II. 1738-9.

Diſſentient'

1. Becauſe we conceive that this Reſolution, under the plauſible Pretence of a reſpectful Addreſs to the Throne, carries with it an Approbation of the Convention concluded at the *Pardo* the 14th of *January* laſt, which, as we apprehend, may be a moſt fatal Compliment, if it ſhould induce his Majeſty to believe, that this Convention is agreeable to the Senſe and Expectation of the Nation.

2. Becauſe this Reſolution hath rather weakened than enforced the Addreſs of laſt Year, having omitted that Part of the ſaid Addreſs, which declares, that no Goods being carried from one Part of his Majeſty's Dominions to another, are to be deemed contraband and prohibited Goods; and that the ſearching of Ships, under Pretence of their carrying contraband, or prohibited Goods, is a Violation and Infraction of the Treaties ſubſiſting between the two Crowns.

3. We think the ſaid Reſolution doth not ſufficiently aſſert our Right, by ſaying only, that we ſhall not be liable to be ſtopp'd, ſearch'd, or viſited upon the open Seas, the Merchants having proved, at the Bar of the Houſe, that Currents and Winds unavoidably drive Ships out of their Courſe, and that Obſervations of Land-Marks, upon the *Spaniſh* Coaſt, are abſolutely neceſſary for their ſteering a ſafe Courſe thro' thoſe Seas, we apprehend, that their being obliged to keep a direct Courſe, without coming near the *Spaniſh* Coaſt, as lately inſiſted upon by the *Spaniards*, would render them ſole Judges of our Navigation; and their being permitted to viſit or ſearch our Ships within any Limits whatſoever, would render our whole *American* Trade precarious and impracticable.

4. Becauſe we ſee no Reaſon to believe, that the future Negotiation of the Plenipotentiaries will, in the next eight Months, obtain the Admiſſion of thoſe Rights inſiſted upon in our former Addreſs, which the Inſtances and Repreſentations made to the Court of *Spain* laſt Year, ſupported by the Reſolution of Parliament, and a powerful Fleet, have not been able as yet to procure.

5. Becauſe we apprehend, the *Spaniards* do not think themſelves bound by this Convention to abſtain from their unjuſt Methods of proceeding; ſince it was proved at the Bar of this Houſe, that Capt. *Vaughan*, a Commander of a *Britiſh* Ship, having been unjuſtly taken by a *Spaniſh* Man of War, his Ship confiſcated, and he impriſoned at *Cadiz*, was, at the Time of ſigning the Convention, detained in Priſon there, and not releaſed in ſeveral Weeks after, notwithſtanding the Repreſentation of the *Britiſh* Plenipotentiary at the Court of *Spain*.

6.

6. Becauſe we conceive, that the Reparation pretended to be made to our Merchants, by this Convention, for the grievous Loſſes they have ſuſtained during a Courſe of many Years, is inſufficient; the dark Accounts of this Tranſaction, laid before us, have not been fully explained, nor any ſatisfactory Reaſons given us why their Demands, ſtated in an Account ſigned *June* the 14th, 1738, by Mr. *Stert*, one of the Commiſſaries, at 343,277 *l.* ſhould be ſo greatly reduced.

7. Becauſe, as we apprehend, we are to allow 60,000 *l.* to the King of *Spain*, chiefly on account of the Ships taken near *Sicily* in the Year 1718; though it hath appeared to the Houſe, from the Inſtructions given to the Commiſſaries after the Treaty of *Seville*, ſigned by his Majeſty, now lying before us, that the Articles of the Treaty concluded at *Madrid* in 1721, upon which that Claim of the *Spaniards* is founded, had been fully executed on the Part of the Crown of *Great-Britain*.

8. Becauſe the referring the Limits of *Florida* and *Carolina* to the Plenipotentiaries, ſeems to call in queſtion our Right to Poſſeſſions, which we have ſo long uninterruptedly enjoyed, ſeven Eighth-Parts, or Shares, of which, the Nation, at a conſiderable Expence, hath, not long ſince, purchaſed of the Proprietors under the two original Grants of King *Charles* II. a certain Diſtrict whereof, called *Georgia*, in Honour to his preſent Majeſty, hath been erected into a new Colony, and granted to Truſtees for laudable Purpoſes; for the Eſtabliſhment and Improvement of which, conſiderable Sums have been granted by the Public: And moreover, it being ſtipulated by the preſent Convention, that no Fortification there ſhall be encreaſed, during the Term of eight Months, we apprehend, that the Regiment lately raiſed for the Defence of that Colony, and alſo the Engineers and Stores, which, at a conſiderable Increaſe of the public Expence, have been ſent thither, will not only remain uſeleſs, but, if a Peace ſhould not be procured within that Period, will, at the End of it, be expoſed, together with the Colonies, to the Violence and Irruption of the *Spaniards*.

9. Becauſe we apprehend the *Britiſh* Miniſter's Acceptance of the Declaration ſigned by M. *de la Quadra*, *January* 10, 1738-9, ſaid to be agreed with *reciprocal Accord*, hath allowed his Catholic Majeſty to reſerve to himſelf, in its full Force, the Right of being able to ſuſpend the Aſſiento of Negroes, in caſe the *South-Sea*-Company doth not ſubject herſelf to pay, within a ſhort Time, the Sum of 68,000 *l.* pretended to be owing on the Duties of Negroes, and Profits of the Ship *Carolina*, though that Sum was never other-

Ann. 12 Geo. II. 1739.

wiſe acknowledged to be due, than as Part of a Plan of Accommodation, wherein a much larger Sum was admitted to be due to the ſaid Company, whereby we apprehend the King of *Spain* may think that great Company is put out of the Protection of his Majeſty, as to this Point, and left to his own Mercy and Equity; whereas, if the Convention, as it now ſtands, had been ſigned without the Acceptance of the Declaration, the King of *Spain* would have had no Pretence, as we conceive, to ſuſpend the Aſſiento; and therefore we apprehend, that the ſaid Declaration will be looked upon as a Defeazance of the ſaid Treaty, as far as it relates to the *South-Sea*-Company, which appears to us a diſhonourable Colluſion, hurtful to public Credit.

10. Becauſe we do not find any Satisfaction has been obtained by the Convention, for the frequent Cruelties and Barbarities exerciſed on the *Britiſh* Sailors, nor for the many Inſults offered to the *Britiſh* Flag; which we are apprehenſive may be thought an Inſenſibility of the Sufferings of a Body of Men, highly uſeful to the Trade, and neceſſary to the Defence of theſe Kingdoms, and a great Neglect of the Honour of the Nation.

Graham,	*Thanet,*	*Clinton,*
Huntington,	*Bruce,*	*Foley,*
Burlington,	*Gainſborough,*	*Haverſham,*
Cheſterfield,	*Beaufort,*	*Shaftſbury,*
Montjoy,	*Cobham,*	*Litchfield,*
Macclesfield,	*Abington,*	*Gower,*
Stanhope,	*Maſham,*	*Suffolk,*
Northampton,	*Strafford,*	*Maynard,*
Clifton,	*Weſtmoreland,*	*Coventry,*
B. *Lincoln,*	*Ker,*	*Boyle,*
Briſtol,	*Aylesford,*	*Carteret,*
Raymond,	*Greenwich,*	*Talbot,*
Winchelſea,	*Oxford,*	*Bathurſt.*

Meſſage for a Settlement on his Majeſty's younger Children, and Debate thereon.

Towards the latter End of *April*, the Lord *Delawar* delivered a * Meſſage from his Majeſty, informing the Houſe, That his Majeſty had been pleaſed to ſettle 39,000 *l. per Ann.* upon the younger Children of the Royal Family, in the following Proportions, *viz.* 15,000 *l. per Ann.* to the Duke of *Cumberland*, and 6000 *l.* upon each of the four Princeſſes, who were unmarried, which Settlement was to take Place at his Death; hoping that their Lordſhips would order in a Bill, enabling his Majeſty to make that Proviſion good out of the hereditary Revenues of the Crown. Upon which,

* See *Chandler's* Hiſt. Ann. 12 Geo. II. 1739. p. 81. &c.

which, the Bill being ready, it was read a firſt and ſecond Time; and the next Day, upon its being read a third Time, a Debate enſued. The Subſtance of which is as follows. Ann. 12 Geo. II. 1739.

Lord *Delawar*.

Lord *Delawar*. ‘ My Lords, I believe it would be quite unneceſſary in me, to take up your Lordſhips Time, in demonſtrating the Fitneſs and Neceſſity, that his Majeſty ſhould be empowered to make a ſuitable Settlement upon the younger Children of his Family. Nature, my Lords, dictates to his royal Breaſt, that they ought to be provided for; and it is both our Duty and Intereſt that, in the worſt of Events, (which God forbid) all the Branches of the Royal Houſe ſhould be above Dependance. Every Nation in *Europe* is proud of ſeeing the younger Children of their Royal Family make a Figure in the World. The Proviſion which his Majeſty has been pleaſed to make, is but very moderate. Twenty-four Thouſand Pound *per Ann.* can never be thought too much to the four Princeſſes; and 15,000 *l. per Ann.* is leſs than I believe any ſecond Son of the Royal Family ever had before. The younger Brother of *Charles* the 2d, had 100,000 ſettled upon him: And the ſmall Allowance to the Duke, mentioned in this Bill, is a Proof of his Majeſty's Moderation, and that he has the Good of his Kingdom, and the Eaſe of his Subjects, always firſt in his Thoughts. Therefore, my Lords, I humbly move that this Bill be now read a third Time.

Lord *Carteret*.

Lord *Carteret*. ‘ My Lords, the worſt Enemy I have in the World, I am perſuaded, will not queſtion my Zeal for the Royal Family. But I have ſeveral Objections to this Bill. In the firſt Place, my Lords, I wiſh it had been brought in at a more proper Time than this, when the Appearance of a War with *Spain* calls upon us to be as ſaving of the Public Money as poſſible. In the next Place, my Lords, as the Kings of *Great-Britain*, are accountable to none but Heaven alone, I am afraid, that if his Majeſty ſhould die, (which God forbid) the next Heir may look upon this Settlement as a Mortgage of his Revenue, which a Parliament has no Power to make, and might refuſe to pay it. My Lords, I don't ſpeak without Authority, I ſpeak according to the Principles of our Conſtitution. Another Reaſon, my Lords, why I am againſt this Bill, is the Manner in which it is now brought in, becauſe we can't paſs it without diſpenſing with a poſitive Act

of

Ann. 12 Geo. II. 1739. of Parliament made in the Reign of *William* III. and which Act binds every future King up from diſpoſing of the hereditary Dominions of the Crown, longer than his own Life-time. Beſides, my Lords, formerly, no Daughter of the Royal Family ever was provided for by Parliament, except the eldeſt, and that never was by way of Annuity, but an expreſs Proviſion of a determinate Sum of Money paid by way of Dowry. The Princeſs of *Orange*, indeed, had an annual Settlement granted her by Parliament, but that, my Lords, was an extraordinary Caſe. The Houſe conſidered the preſent low Circumſtances of that illuſtrious Family, which, perhaps without ſuch an Aſſiſtance, could not provide a Maintainace ſuitable to the Dignity of the firſt Daughter of *Great Britain*.

'Fifteen Thouſand Pound, my Lords, is but a very moderate Proviſion, I own, for his Highneſs the Duke. It is perhaps too little, and I have no Objection to our granting it, provided it is done by way of independent Proviſion, and that his Highneſs ſhall enter on it, either at the Time of the Commencement of this Bill, or when he comes of Age.

'But, my Lords, my great Objection to the Bill is, that in the Event it will be found to put 39,000 Pounds in the Pockets of the Miniſter. Conſider, my Lords, that when the preſent vaſt Civil Liſt was granted, it was granted with a View, that the Prince of *Wales* was to have at leaſt 100,000 Pounds *per Ann.* out of it. The Houſe conſidered likewiſe, that his Majeſty had a large Family, that he had a Queen alive, and they made it about 100,000 Pounds more on that account. Now, my Lords, it is well known, that the Prince of *Wales* does not enjoy above 50,000 Pounds *per Ann.* out of the Civil Liſt. Here are 50,000 Pounds *per Ann.* ſaved to the Government. By the Death of the Queen, at leaſt 50,000 Pounds more are ſaved, which makes 100,000 Pounds a Year. Now, my Lords, if this 100,000 Pounds were laid up for independant Proviſions to the Daughters of the Royal Family, there would be ſoon no need for this Application: or if the Public were eaſed of ſo much of its annual Burden, I ſhould not oppoſe this Bill. But, my Lords, it's plain there is to be no ſaving to the Public, for the Civil Liſt ſtill continues the ſame, and it appears from this Bill, that the Money thus ſaved is not intended for that Uſe.

'For theſe Reaſons, my Lords, I think we ought, at leaſt, not to be in ſuch a Hurry in carrying through this Bill. Therefore, I am for putting off its being read a third Time at preſent.

Duke

Duke of *Newcaſtle.*

Duke of *Newcaſtle.*

'My Lords, I think it hard that his Majeſty ſhould be put in worſe Condition than any private Gentleman in *Great Britain*, who thinks it his Duty, if he has Children, to provide for them. The noble Lord's Reaſon, drawn from what was the former Practice in Parliaments, has no Weight with me at all: For when Proviſions for the younger Children of the Royal Family were made before the Reſtoration, the Royal Revenues were quite upon a different Footing from what they are at preſent. Theſe Kings then enjoyed a conſiderable Eſtate in Land, out of which they could provide for all their younger Children without conſulting their Parliament.

'Since the Reſtoration, my Lords, I think this is the firſt Inſtance of a King of *Great Britain* requiring any Proviſion to be made for the younger Children of their Family. *Charles* II. had none to provide for. Thoſe of *James* were married before he came to the Throne. *William* III. had none. Queen *Anne* had but one Son, who died before her Acceſſion. And the Daughter of King *George* I. was married before he was King. Therefore, my Lords, we have no Precedent that anſwers this Caſe. The noble Lord ſays, that if we paſs this Bill, we muſt diſpenſe with an Act of Parliament. My Lords, that is the very Reaſon why we ſhould paſs it, becauſe tho' the Thing is abſolutely proper in itſelf, yet it cannot be done unleſs we paſs this Bill.

'As to his Lordſhips Objection to encreaſing the Civil Liſt, I think it has nothing to do with the preſent Queſtion. If the Purpoſes for which the Civil Liſt is granted, are anſwered, we have no Right to aſk an Account in what Manner the Money is applied, or thro' whoſe Hands it paſſes. If his Majeſty has a larger Civil Liſt than his Predeceſſors, he has likewiſe more to do with it, and there is not a Child in the Royal Family, who is not ſupported as liberally as the Civil Liſt can afford.

'I had almoſt forgot another Objection of the noble Lord's; his Lordſhip ſeemed to doubt if this Act of Parliament could bind a ſucceeding King. My Lords, I never heard ſuch a Doubt propoſed before in this Houſe. I hope never to hear ſuch another propoſed, and of all Mankind I am ſurprized, how the noble Lord, who underſtands our Conſtitution ſo very well, ſhould ſtart ſuch a Difficulty. For my Part, my Lords, I never before heard it queſtioned, that an Act of Parliament was not binding upon every King, who ſhall ſucceed to this Throne. Therefore, my Lords, I hope the Motion will be agreed to.

Lord

Ann. 12 Geo. II. 1739.

Lord *Talbot*,

Lord *Talbot*.

'My Lords, I am ſorry, that I am obliged to give a Negative to a Motion that carries with it an Appearance of Zeal for the Royal Family. But, my Lords, the vaſt Increaſe of the Civil Liſt is a Circumſtance which we ought moſt to dread at preſent, and to guard againſt hereafter. I confeſs, my Lords, there may, on ſeveral Occaſions, be very good Reaſons for augmenting that Revenue; but do we ever find, when thoſe Reaſons ceaſe, that the Augmentation ceaſes? It has been obſerved, my Lords, when a King comes to the Crown, the Miniſters, to ingratiate themſelves in his Favour, endeavour to outvie each other in engaging for a large Civil Liſt; and he that bids higheſt, as at an Auction, generally carries his Point. Now, my Lords, in ſuch Caſe, this very Bill, ſhould it paſs, would be given as one Reaſon to the Parliament for granting 50 or 60,000 Pounds, becauſe it had been granted before; which is juſt ſo much Money levied on the People for the Purpoſes of the Miniſter, without any Neceſſity or Reaſon then ſubſiſting, whatever there might be at firſt.

On which Account, and becauſe I believe the Royal Family may be provided for otherwiſe, I do not chuſe to give my Conſent haſtily to the preſent Motion.'

Lord Cheſterfield.

Lord *Cheſterfield*.

'My Lords, my Zeal for the Royal Family has, I hope, never been queſtioned: However, I can truly declare, it is a Zeal quite diſintereſted; it is both unexpecting and undeſiring. I hope therefore, my Lords, that what I ſhall offer with regard to this Queſtion, will not be thought to proceed from any Motive but the Intereſt of my Country.

'My Lords, Burthens unneceſſarily born diſable the Nation to bear neceſſary ones. I look upon this Bill as ſaddling the Public with a Burthen, which I allow it is not at preſent charg'd with, but which muſt be hereafter entail'd on the Nation. For if we conſider the Nature of Mankind, the new King is always better than his Predeceſſor; and it will be unreaſonable to deprive ſo good a King as the next or the next after him, who is to ſucceed, of any Part of what his Predeceſſors enjoyed, tho' perhaps not one of the Reaſons, for which it was granted, exiſt. But, my Lords, I am of the noble Lord's Opinion who ſpoke firſt againſt the Motion, that this Bill might poſſibly not be regarded by a ſucceeding King, ſince it is the ſame Thing as mortgaging an Eſtate without

without Conſent of the Heir of Entail, who, as ſoon as he comes to Age, may diſpute the Legality of the Mortgage This is all that the noble Lord, I dare ſay, meant in what he threw out on that Head. And if a future King, my Lords, ſhould take it in his Head to diſpute the Authority of this Bill, I ſhould be glad to know what Redreſs the other Parties could hope for, or where they could apply for Relief.

'But, my Lords, let us conſider that while we are thus providing for certain Branches of the Royal Family, who certainly merit more than we can beſtow, there are other Branches of it nearer to the Throne, who are not only unprovided for, but *unprayed* for; it would have been decent, at leaſt, that ſome Care ſhould have been taken of them.

'As for the Proviſion to be made for the Duke of *Cumberland*, I have no Objection to it, but that it is too mean, and that he can't enjoy it as an independent Proviſion, either upon the Commencement of the Bill, or when his Highneſs comes of Age. His Highneſs, my Lords, will, in a very few Years, have a Right to ſit and vote in this Houſe; and is it fit that the Third Perſon in the Kingdom ſhould have only a precarious Dependance, that every Lord in this Houſe would, I am ſure, diſdain? His Majeſty, were he in his Highneſs's Place, would diſdain ſuch a Dependance; and every Nation abroad muſt be apt to have a very mean Opinion of the Wiſdom of this Kingdom, if we ſhould ſuffer the Son of our King to be the only Perſon in this Houſe who muſt depend on the Pleaſure of a Miniſter for his daily Subſiſtence.

'As to the Increaſe which the Civil Liſt, in a future, perhaps in the preſent Reign, may acquire by this Bill, I think, my Lords, it is a Conſideration of the higheſt Importance to this Houſe; eſpecially, if what is commonly ſaid, be true, (I tremble to ſpeak it) that the preſent monſtrous Civil Liſt it in Debt. My Lords, I don't pretend to the Gift of Prophecy, but I do foreſee that the fatal Blow to the Conſtitution of this Kingdom will come from the Exorbitancy of the Civil Liſt: I foreſee, that if proper Meaſures are not taken to prevent it, it will become pregnant with ſecret Miſchief, till, like the *Trojan* Horſe, it will be ſo unwieldy, that, in order to admit it, the Wall of this Conſtitution muſt be one Day broken down.'

Lord Chancellor.

'My Lords, I did not imagine that there would have been the leaſt Debate upon this Motion. It is ſo very reaſonable that his Majeſty ſhould have it in his Power to provide for

Lord Chancellor.

Ann. 12 Geo. II 1739.

his own Family, that if your Lordſhips would bring his Majeſty's Caſe home to yourſelves, I dare ſay there will not be the leaſt Difference of Opinion. I think the Reaſonableneſs of granting a Proviſion to the Princeſſes, has, in Effect, been admitted by the Lords who ſpoke againſt this Motion. The only Difficulty that remains, is with Regard to the Dependency of the Proviſion of his Royal Highneſs the Duke, and to the Increaſe which this may make to the Civil Liſt. As to the firſt Objection, my Lords, I believe there are none of your Lordſhips, who are Parents yourſelves, who would not wiſh to have your Children dependent of you; the Independency of Children, my Lords, is a great Temptation for them to neglect their natural Duty to their Parents. I believe his Highneſs the Duke has all the Sentiments of a dutiful Son, and, for that Reaſon, my Lords, he never will take it amiſs, that, during his Majeſty's Life-time, he is dependent on him. Nor, my Lord, is it in a Miniſter's Power to make their Subſiſtence precarious, after it is ſettled by Act of Parliament.

'As to the Increaſe that this may bring to the Civil Liſt, I cannot ſee the leaſt Reaſon for ſuch a Suggeſtion. Future Parliaments are always Judges how large or how ſmall a Civil Liſt ought to be; and, if the Public Exigency ſhould require it, there is not the leaſt Doubt, but that the Parliament would reduce the Civil Liſt in Proportion as the Cauſes for the granting it ſhall ceaſe.'

Lord *Hervey.*

Lord *Hervey.*

'My Lords, ſince I had the Honour to ſit in this Houſe, I never heard ſuch Arguments advanced upon any Subject as have been advanced on this. The noble Lord who ſpoke firſt, ſaid, that he did not think that a King of *Great Britain* was to be bound by an Act of Parliament. This, my Lords, was a Maxim fitter for a *Turkiſh* Divan, than for a *Britiſh* Parliament. I hope never to live, my Lords, to that Time, when an Act of Parliament ſhall not bind the King, as well as any private Man in his Kingdom; and if the Parliament ſhall confirm this Settlement by an Act, his Royal Highneſs and the Princeſſes have juſt as good a Right to it, as any King has to his Crown.

'The noble Lord ſaid, that we muſt diſpenſe with an Act of Parliament in order to paſs this Bill. My Lords, that is no new Thing; for that very Act was diſpenſed with in the firſt Year of Queen *Anne*, when a Proviſion, on the ſame Foot with the preſent, was made by the Parliament in favour of Prince *George* of *Denmark*. Another noble Lord ſpoke of

of other Branches of the Royal Family not being either provided or pray'd for. My Lords, that is too delicate Ground to tread upon, and it is not quite decent to bring ſuch a Caſe into this Debate. Ann. 12 Geo. II. 1739.

But, my Lords, give me leave to obſerve, that there is one Thing that ought to have great Weight with your Lordſhips on this Occaſion, and that is, the precarious Footing which the Subſiſtence any younger Child of the Royal Family muſt be on, in caſe of a Regency. I hope, my Lords, his Majeſty, and the Prince of *Wales*, will long ſit upon the Throne; but, my Lords, if theſe two Lives were at an End, which God forbid, our Laws are quite ſilent with regard to the Right of being Regent during a Minority. This, my Lords, is, perhaps, the greateſt Blemiſh in our Conſtitution. And therefore, as it is impoſſible to foreſee Events, your Lordſhips will act but prudently in putting the Subſiſtence of thoſe, for whom we ought all to have ſo great a Regard, above the Reach of any Perſon whatſoever.'

Lord *Bathurſt* then ſaid, 'That there was a Standing Rule in the Houſe, that every Bill ſhould be committed; and therefore moved, that the Bill ſhould be committed. The Lord *Delawar* anſwered, that it was very common for Bills to paſs without being at all committed; and that if the Forms of the Houſe were to be diſpenſed with, it ought to be on that Occaſion.' Lord *Bathurſt*.

The Queſtion being put on the Commitment, it was carried in the Negative. Yeas 78. Noes 27. Diviſion on the Queſtion.

May 10. The Duke of *Newcaſtle* laid before the Houſe the Subſidy-Treaty betwixt his Majeſty and the King of *Denmark*; by which the former was to pay to the latter 70,000 *l per Annum*, and the latter was to furniſh to his *Britannic* Majeſty a Body of Troops of 6000 Men, to be ready at his Majeſty's Call, who was to pay 50 Crowns, by way of Levy-Money, for each Foot-Soldier, and 80 for every Horſeman. At the ſame time his Grace delivered a Meſſage, ſignifying, that his Majeſty hop'd the Houſe would enable him to make good his ſaid Engagements with the King of *Denmark*, and alſo enable him to raiſe what Money and Troops the Exigency of Affairs, during the approaching Receſs, might require. Treaty of Subſidy with *Denmark* laid before the Houſe.

After which his Grace expreſſed himſelf to the following Effect. Debate thereon.

Ann. 12 Geo. II. 1739.

Duke of *Newcaſtle.*

'My Lords, as his Majeſty's moſt gracious Meſſage to this Houſe conſiſts of two Parts, one of which relates to the Treaty lately concluded with the King of *Denmark*, which he has been ſo good as to order to lay before us, and the other to the Augmentation of his Forces, and the other Meaſures that may, in this critical Juncture, become neceſſary; I ſhall beg Leave to conſider them diſtinctly, and in order, as they ſtand in the Meſſage. As to the Treaty with *Denmark*, I believe, the Expediency, and even the Neceſſity of concluding ſuch a Treaty, upon the preſent Occaſion, will be acknowledged by every Lord that conſiders the remarkable Turn of Affairs, which has lately happened in *Sweden*, and the precarious State the Tranquility of this Nation now ſtands in. It is a Misfortune attending a free Government in every Country, to have their People divided into Factions or Parties; and this Misfortune *Sweden* of courſe relapſed into, as ſoon as they had recovered and eſtabliſhed their Liberties, upon the Demiſe of their late Sovereign. That Kingdom is now divided into two Parties, one of which is for preſerving the Peace with all its Neighbours, particularly *Muſcovy*, and ſtrictly obſerving thoſe Treaties that have been concluded ſince the Acceſſion of their preſent King; whereas the other, which is the moſt turbulent, and of courſe the moſt popular, is for taking the firſt Opportunity for endeavouring to recover thoſe Provinces which were diſmembered from that Kingdom, by the Misfortunes of the late Reign, notwithſtanding their having been yielded to the Potentates now in Poſſeſſion of them, in the moſt ſolemn Manner, and by the moſt expreſs and explicit Treaties of Peace.

'Of theſe two Parties, my Lords, the firſt has always been for cultivating a good Correſpondence with this Nation; becauſe they may depend upon being ſupported by us, in caſe their Country ſhould be unjuſtly attacked by any ambitious Neighbour: They have nothing but juſt and peaceable Views; and in theſe, they ſtand in no need of any Alliance but that of this Kingdom. But the Views of the other Party, my Lords, are very different: Their Views are unjuſt, and in the Proſecution of ſuch, they can expect no Encouragement or Aſſiſtance from this Nation. They can expect Aſſiſtance from no Power in *Europe* but *France*; and this makes them ready to ſecond the Views of that Kingdom, and to enter into any Alliance that may be propoſed to them by the Court of *France*. This Party, by their Intriegues among the Members of the laſt Diet, and by the Hopes they gave the People of recovering their loſt Provinces, which however improbable, will always be popular, have

have got themſelves eſtabliſhed in the Adminiſtration of public Affairs; and, as ſoon as they had effected this, they immediately concluded an Alliance with *France*, and began to make Preparations both by Sea and Land, as if they had ſome grand Project in View.

'What the Deſign of theſe Preparations may be, or what Deſign the *French* may have in giving ſo large a Subſidy to *Sweden*, and in offering ſo conſiderable a Subſidy to *Denmark*, are Secrets which the World is not as yet let into; but, conſidering the precarious Footing upon which the Peace between *Spain* and us ſtands at preſent, and conſidering the Uncertainty of the Meaſures *France* may take, in caſe of a War between this Nation and *Spain*, it would have been very imprudent in us, to have allowed *France* to engage both the northern Crowns in an Alliance, in which there would probably have been ſome ſecret Articles, which might have been of great Prejudice to this Nation. I have already ſhewn, why it was impoſſible for us to prevent the now governing Party in *Sweden*, from entering into the Alliance propoſed to them by *France*; therefore, the only Thing we could do, was to prevent the Acceſſion of *Denmark* to that Alliance; and there was no other Method for doing this, but by concluding, with *Denmark*, ſuch a Treaty as his Majeſty has now ordered to be laid before you. For this Reaſon, I am convinced, there is no Lord in this Houſe, that will not readily approve of this Treaty, and moſt chearfully concur in enabling his Majeſty to make good the Engagements he has thereby entered into.

'My Lords, the Advantages that muſt accrue to this Nation from the Treaty now before us, appear upon the Face of the Treaty itſelf; but, when I tell your Lordſhips, that no Alliance was ever more earneſtly ſollicited, than the Alliance of *Denmark* was by *France*, upon this Occaſion, theſe Advantages will appear to be more conſiderable, and the Neceſſity we were under of concluding this Treaty will become manifeſt. The Subſidy we are to pay to the Crown of *Denmark*, is, 'tis true, a little extraordinary; but when we conſider, that a much larger Subſidy was offered by *France*, we muſt conclude, that nothing more evidently points out to us the Wiſdom of the King of *Denmark*, and his good Inclinations towards this Nation, than his rejecting, upon this Occaſion, the Offers of *France*, and accepting from us a much ſmaller Subſidy than was offered to him by that Kingdom. I ſhall grant, it was more for the Intereſt of *Denmark* to join in an Alliance with this Kingdom, than to join in an Alliance with *France*; but when the Intereſt of a Court happens to be oppoſite to that of the Country,

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Ann. 12 Geo. II. 1739.

it requires ſome Addreſs in thoſe that apply to them; it requires Wiſdom in the Court applied to, for prevailing upon them to prefer the latter. This was the Caſe in our late Negotiations with *Denmark*: It was the Intereſt of that Court to accept of the larger Subſidy offered by *France*; it was the Intereſt of the Country to accept of the leſſer Subſidy offered by *Great Britain*. This, we may ſuppoſe, was ſet in its true Light, by thoſe who were employed by his Majeſty in that Negotiation; and his *Daniſh* Majeſty's natural good Senſe prevailed with him, as it ought, and, I hope, always will, to prefer a future Intereſt to a preſent Advantage, and to ſacrifice his own immediate Intereſt to the Happineſs of his Country, and the Security of his Poſterity.

'I hope your Lordſhips will excuſe my having ſaid ſo much upon the firſt Part of the Meſſage now under your Conſideration, which is, indeed, of ſuch a Nature, that I cannot ſuggeſt to myſelf any Objection that can be made againſt our complying with it; and as to the other Part of the Meſſage, it appears, in my Way of Thinking, as reaſonable as the former. I have often heard thoſe plauſible Arguments, that are commonly made uſe of againſt Votes of Credit and Confidence. Perhaps they may be repeated upon this Occaſion; and, I ſhall allow, that ſuch Votes ought not to be paſſed, but in Caſes of an extraordinary Nature. I ſhall grant, it would be dangerous to intrude the Cuſtom of concluding every Seſſion of Parliament with a Vote of Credit and Confidence, to the King then upon the Throne; but this is what was never contended for; and whatever may be done upon any extraordinary Emergency, can be no Precedent for doing the like, when no ſuch Emergency exiſts. Upon ſuch Occaſions, therefore, we are to conſider the Situation of our Affairs at that Inſtant of Time; in order, from thence, to determine, whether ſuch a Vote be then neceſſary or no. If we do this, I believe, every Lord that hears me muſt agree, that a Vote of Credit and Confidence was never more neceſſary than it is at this preſent Conjuncture. We have, 'tis true, a Convention with *Spain*; but that Convention is only a Sort of Preliminary: The principal Articles in Diſpute between *Spain* and us, remain yet to be adjuſted; and even thoſe Articles, which by this Convention were finally ſettled, remain ſtill uncomplied with. The beſt Way of ſecuring a Compliance, is to be in a Condition to compel it; and the only Method by which we can expect to have the other Articles adjuſted to our own Liking, is to ſhew that we are ready to vindicate our Rights by Force of Arms, in caſe the *Spaniards* ſhould continue obſtinate

ſtinate in refuſing to acknowledge them by peaceable Means. Ann. 12 Geo. II. 1739.

'The Seſſion, my Lords, is now drawing towards a Concluſion. The Parliament will probably be prorogued; the Seaſon of the Year is now ſo far advanced, that it will even become neceſſary for his Majeſty to prorogue it, before he can know what may be the Reſult of the preſent Councils of *Spain*; and, if we ſhould ſeparate, without enabling his Majeſty to put the Nation into a warlike Poſture, as ſoon as the Exigency of our Affairs may require, it will encourage the Court of *Spain*, not only to refuſe giving us Satisfaction with regard to thoſe Diſputes that remain as yet to be adjuſted, but alſo to refuſe performing thoſe Stipulations which they have expreſly promiſed by that Convention, which has been ratified by both Crowns. Thus, by neglecting to furniſh his Majeſty with thoſe Powers that are neceſſary for enabling him to engage in a War, we ſhall render a War unavoidable: By a groundleſs Apprehenſion of running ourſelves into a Danger of a domeſtic Nature, we ſhall run ourſelves into a real foreign Danger; and by refuſing to empower his Majeſty to put the Nation to a ſmall Expence, which, by his being empowered to do ſo, may become unneceſſary, and which we are ſure his Majeſty will not put us to unleſs it be neceſſary, we may ſubject the Nation to an immenſe Charge, which in its preſent Circumſtances, I am ſorry to ſay, it is not well able to bear.

'From theſe Conſiderations, my Lords, I muſt be of Opinion, that there is as much Reaſon for our complying with the ſecond Part of this Meſſage, as with the firſt; and as I can apprehend no Danger from our complying with both, I ſhall take the Liberty to move your Lordſhips to reſolve, That an humble Addreſs be preſented to his Majeſty, to thank him for laying before this Houſe, the Treaty lately concluded with the King of *Denmark*; and to aſſure his Majeſty, that this Houſe will not only concur in enabling him to make good the Engagements he has entered into by that Treaty; but alſo in enabling and ſupporting him to make ſuch further Augmentation of his Forces, either by Sea or Land, as may become abſolutely neceſſary; and in concerting ſuch Meaſures, as the Exigency of Affairs may require.'

Lord *Carteret*.

My Lords, the noble Duke has very properly divided his Majeſty's Meſſage into two Parts. It conſiſts, indeed, of two Parts, and they are of ſo different a Nature, and ſo diſtinct from Lord *Carteret*,

Ann. 12 Geo. II. 1739.

from one another, that I am ſurprized at his Majeſty's having been adviſed to join them together in one and the ſame Meſſage. They are ſo diſtinct, that it is impoſſible to ſpeak to them both together; and therefore I muſt conſider them ſeparately, as the noble Duke has done before me.

With regard to the firſt Part, my Lords, which relates to the Treaty lately concluded with *Denmark*, if the Meſſage had been confined to that Treaty alone, I am perſuaded no Objection would have been made, by any Lord in this Houſe, to our complying with what his Majeſty deſires; and, as I have often taken the Liberty to find fault with our late Meaſures, I am glad to have this Opportunity of giving my Approbation to ſomething that has been done by thoſe now at the Head of our Adminiſtration. In our preſent Circumſtances, my Lords, and conſidering the preſent unlucky Poſture of Affairs in *Europe*, to which we have, by our late Meaſures, not a little contributed, the concluding of this Treaty was abſolutely neceſſary for us, in order to prevent *Denmark*'s entering into any Engagements that might be of dangerous Conſequence to the Intereſt of this Nation in particular, and the Tranquillity of *Europe* in general. Therefore, however expenſive this Treaty may be to us, yet, in the main, I muſt think it was a wiſe, a right, and a neceſſary Meaſure. But, at the ſame time, I cannot help obſerving, what can eſcape the Obſervation of no Man, who compares this Treaty with thoſe that have been concluded upon former Occaſions between the two Crowns, That a Nation, like a private Man, the lower it ſinks in its Credit, the dearer it muſt pay for every Favour it is obliged to ſue for.

This Obſervation occurs the more readily to me, my Lords, becauſe I was once concerned in negotiating a Treaty of the ſame Kind with the Crown of *Denmark*. When I had the Honour to be employed by his late Majeſty in his Negotiations with the Northern Crowns, a Treaty was concluded between him and the King of *Denmark*, of the ſame Nature with this now before us: But by that Treaty, we paid but 70 *Crowns* for each Horſe-man his *Daniſh* Majeſty was to keep in Readineſs for our Service; whereas, by this Treaty, we are to pay 80 Crowns for every ſuch Horſe-man; which Difference, though it may appear inconſiderable when conſidered with reſpect to each ſingle Man, yet upon 1000 Horſe-men, the Number ſtipulated by this Treaty, it amounts to a very large Sum; and it is the more conſiderable, becauſe, by the Treaty, we are obliged to pay immediately one Moiety of this 80 Crowns for each Horſe-man, and 30 Crowns

Crowns for each Foot-Soldier, whether we have Occaſion for theſe Troops or no. In this Light, the Difference of 10 Crowns upon each Horſe-man, will appear to be of ſome Conſequence, eſpecially, if we conſider the preſent unfortunate Circumſtances of this Nation, and the great Charge we muſt be at, if a War ſhould enſue between us and *Spain*, which I have, indeed, long thought inevitable, and I have now more Reaſon to think ſo than ever I had before. Ann. 12 Geo. II. 1739.

Beſides this Diſadvantage, my Lords, there are ſeveral others, which every Lord may ſee, by comparing the two Treaties; but what is ſtill worſe, this Treaty can be of no Advantage to us, except that of preventing *Denmark*'s engaging againſt us, unleſs we can engage in our Intereſt ſeveral other Powers upon the Continent, beſides *Denmark*. We can, by this Treaty, make no uſe of the *Daniſh* Troops, in any Expedition we may think fit to undertake againſt *Spain*; becauſe it is expreſsly provided, by the ſixth Article of this Treaty, That this Corps of *Daniſh* Troops ſhall not be made uſe of either in *Italy*, or upon the Fleet, nor is it to be tranſported, in Whole or in Part, beyond Sea, after it is come out of the Territories of *Denmark*, except for the Defence of the Kingdoms of *Great Britain* and *Ireland*. Nay, if *France* ſhould join with *Spain* againſt us, we could make no uſe of this Body of *Daniſh* Troops, either againſt *Spain* or *France*, unleſs we ſhould have Occaſion to form an Army in *Germany* or *Flanders* againſt *France*; and this we neither can, nor ſhall have the leaſt Occaſion for, unleſs we can form a Confederacy amongſt the Princes and States, who have Dominions in that Part of the World; which we have, as yet, I believe, no great Hopes of being able to accompliſh

This Treaty with *Denmark*, my Lords, is but a preparatory Step towards accompliſhing ſo great and neceſſary a Deſign. Several other Steps muſt be made, and particularly, there is another Power upon the Continent, whom I may likewiſe call a Northern Power, whoſe Alliance we ought to ſeek, upon the preſent Occaſion, as much as that of *Denmark*. When I ſay ſo, I believe, every Lord that hears me will ſuppoſe, I mean the King of *Pruſſia*. He is a powerful Prince: He is a Proteſtant Prince, my Lords; and one of the chief Supports of the Proteſtant Cauſe in *Germany*. It is hardly poſſible, that ever any natural Difference can ariſe between this Nation and that Crown; therefore we ought always to cultivate a good Correſpondence with him: We ought even to promote his Intereſt, and ſupport his Pretenſions, as far as may be conſiſtent with our own Safety. While we do this, we may depend upon a grateful Return; becauſe it will always be his Intereſt to be grateful, which,

Ann. 12 Geo. II. 1739. amongſt Princes, is the only Gratitude that can, with Aſſurance be depended on. By our Religion, we are embarked upon the ſame Bottom with the King of *Pruſſia*; and as there can be no Jarring of Intereſts between the two Crowns, we ought to ſupport one another in all juſt Pretenſions, we ought to aſſiſt one another againſt every unjuſt Attack. Therefore, I wiſh the ſecond Part of this Meſſage had been to acquaint us of a new Alliance concluded with the King of *Pruſſia*, and to deſire, that his Majeſty might be enabled to perform the Engagements thereby entered into; which, I am ſure, would have been a ſecond Part more agreeable to the firſt, than that which now ſtands ſecond in this Meſſage.

'The Danger of *Sweden*'s diſturbing the Tranquility of the North, by attacking *Muſcovy*, was not our only Motive for concluding this Treaty with *Denmark*. If it had, I am ſure, it would have been ridiculous in us to put our ſelves to ſuch an Expence. We might have truſted to *Muſcovy* for defending itſelf; and *Denmark* was not only by Treaty, but in Intereſt, obliged to aſſiſt *Muſcovy*, in caſe it had been attack'd by *Sweden*; therefore, it would have been ridiculous in us to engage *Denmark* by a large Subſidy, to do what was neceſſary for their own Safety. But this, my Lords, was far from being our only Motive: It was our own Safety that made it neceſſary for us to conclude this Treaty: It was to prevent the Fleets of *Denmark* and *Sweden* from being joined with that of *France*. Such a Conjunction we had, we have ſtill great Reaſon to guard againſt on our own Account, and without Regard to the Tranquility of the North; becauſe, in caſe of a War between us and *Spain*, we do not know what Part *France* may take in the War: We are pretty certain, I believe, it will take no Part with us; and, if the *French* ſhould join with the *Spaniards* againſt us, it would be of the moſt dangerous Conſequence, to have the Navy of *France* increaſed and ſupported by the Ships and Seamen of *Denmark* as well as *Sweden*.

This, my Lords, is what makes me in general approve of the Treaty now laid before us. If our Credit had been better, we might probably have obtained it upon more reaſonable Terms, and at a leſs Expence; for though *France* offered perhaps a larger Subſidy, yet the Terms were far from being ſo advantageous for the King or Country of *Denmark*; it was not poſſible they ſhould be ſo; becauſe, in Conſideration of the Subſidy offered by the Court of *France*, that Court would certainly have inſiſted upon a Number of Seamen and Ships of War from *Denmark*, as ſoon as they might have Occaſion for them. They ſtood in no Need of any of the

the Land-Forces of *Denmark*; they ſtood in great Need of their Seamen and Ships of War; therefore, they would certainly have ſtipulated for a Number of the latter, as a Return for the Subſidy they were to pay. This, the King of *Denmark* could not furniſh, or keep in readineſs, without putting himſelf to a very extraordinary and a new Expence. Whereas, we deſired only a Number of Land-Forces, which the King of *Denmark* can furniſh, without putting himſelf to any new Expence, becauſe he keeps in conſtant Pay ſo great a Number of Regular Troops, that he can furniſh us with the 6000 ſtipulated by this Treaty, without adding one Man to the Number he has now in his Pay. Ann. 12 Geo. II. 1739.

With Regard therefore to the Court of *Denmark*, it was their Intereſt to accept of the leſſer Subſidy from us, rather than the larger Subſidy from *France*; and, with regard to the Country, I am ſure it was more for the Intereſt of the People of *Denmark* to ſend away 6000 of their Regular Troops, than to ſend away 6000 of their Seamen. The latter they could not ſpare without diſtreſſing their Trade; but, as to their Regular Troops, it is for the Intereſt of the People of *Denmark*, it is the Intereſt of every Country where ſuch Troops are kept up, to have them quartered any where, rather than at Home. To this, I muſt add, my Lords, that the Terms offered, and the Engagements deſired by *France*, could not be but inconſiſtent with thoſe Treaties which are now ſubſiſting between *Muſcovy* and *Denmark*; and, I believe, every Man in *Denmark* ſaw, that no Subſidy that was, or could be offered by *France*, would be equal to the Prejudice the Crown and Country of *Denmark* might ſuſtain, by the Forfeiture of its Alliance with the *Ruſſian* Empire.

But, my Lords, the Forfeiture of the Friendſhip and Confidence of the Court of *Ruſſia*, was not the only Prejudice the Crown and Kingdom of *Denmark* would have ſuffered, by engaging in an Alliance with *France* upon this Occaſion. Such an Alliance would have been a Breach of that ancient Friendſhip, which has ſo long ſubſiſted between *Denmark* and this Kingdom; and this might have been in many Reſpects of fatal Conſequence to *Denmark*. Their chief Nurſery for Seamen depends upon their Trade with this Kingdom: It depends upon their being allowed to import into this Kingdom, their Timber and all Sorts of Naval Stores, in their own Shipping, which is an Advantage we may take from them, whenever we have a Mind; and, if we ſhould take this Advantage from them, their Alliance would ſoon come to be deſpiſed by *France*; becauſe it could be of little or no Service to that Kingdom. Nay, without a conſiderable

Ann. 12 Geo. II. 1739.

Number of Seamen, and a large Squadron of Men of War, they would not be able to keep a Communication, and a mutual Dependence between the ſeveral Parts of their own Dominions: Their King would then be obliged to depend upon *France*, for the Preſervation of his Crown; and the certain Conſequence of this would be, an abſolute Subjection to the King of *France*; which is a Danger they have no Reaſon to apprehend from the King of *Great Britain*; becauſe, by the Nature of our Government, our King muſt conſult the Happineſs of his People, more than his own Ambition: and it is inconſiſtent with our Happineſs to attempt to make Conqueſts upon any Part of the Continent of *Europe*.

Thus it muſt appear, my Lords, that tho' this Treaty with the *Danes*, be a Meaſure which in our preſent Circumſtances I highly approve, yet, in our having brought about ſuch a Treaty, we have no great Cauſe to boaſt of our Wiſdom in Politics, or our Skill in Negotiation: It was what common Senſe dictated to us, and the Circumſtances of the two Nations rendered extremely convenient, if not abſolutely neceſſary for them. I wiſh we had allowed ourſelves to be as much governed by common Senſe in all our former Treaties and Negotiations: If we had never deviated from the Dictates of common Senſe, in order, I believe, to amaze the World with the Profoundneſs of our Politics, neither the Circumſtances of this Nation, nor the Circumſtances of *Europe*, would have been in the untoward Poſture in which they are at preſent.

But now, my Lords, with regard to the ſecond Part of this Meſſage; I am, indeed, not a little ſurprized, how it came to be tacked to the firſt. As all Meſſages are, in this Houſe, ſuppoſed to be Meſſages from the Miniſter, I may ſay, without giving any juſt Offence, that the two Parts of this Meſſage ſeem to have been deſignedly tacked together, in order to make the firſt Part ſerve as an alluring Vehicle, for enticing us to ſwallow down the bitter Pill contained in the ſecond. A general and unlimited Vote of Credit and Confidence, is a Thing of a moſt dangerous Nature. Such a Demand, our Anceſtors would have been amazed at, and would certainly have rejected with Scorn. The Practice is but of a modern Date in this Kingdom. It was never heard of before the Revolution; and never became frequent, till this Nation was bleſſed with our preſent wiſe Adminiſtration. Since that happy Period began, I ſhall grant, that ſuch Meſſages have been frequent, and always punctually complied with, notwithſtanding our having been in a continual Courſe of Peace, tho' I cannot ſay, Tranquillity, during the whole Time. What the Reaſons were for making

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ſuch Demands, or what the Reaſons were for complying ſo punctually with them, I ſhall not now enquire; but, I muſt think, that ſuch Demands, and ſuch Compliances, are rather an Omen of our bad Conduct in Time to come, than a Demonſtration of our good Conduct in Time paſt.

Whatever we may think, my Lords, here at home, I have good Reaſon to believe, that the Frequency of ſuch Demands, and the ready Compliance they have all met with, renders our Conſtitution the common Jeſt of every Man abroad. Our Pretences to Liberty will, I fear, in a ſhort Time, become as much the Ridicule of Foreigners, as our late Conduct has already rendered our Pretences to the Holding of the Balance of Power in *Europe*. I was confirmed in this Opinion by a Queſtion lately put to me by a *French* Nobleman: He was a Man of good Senſe, and yet, he one Day ſeriouſly aſked me, what Difference there was between the Parliament of *England*, and the Parliaments they have in *France*. I readily anſwered, and I hope I had ſome Ground for ſaying, That in *France*, the King makes their Laws or Edicts, and their Parliaments muſt comply with whatever the King deſires; but in *England*, our Laws are made by King and Parliament, and our Parliaments may refuſe to comply with what the King deſires. To which, he as readily replied, In your late Hiſtory, we read of ſeveral extraordinary Meſſages or Demands ſent by your King to his Parliament, no one of which was ever refuſed; and pray, where is the Difference between an Edict made by the King, and an Edict made by King and Parliament, if the Parliament never refuſes what the King is pleaſed to demand; for, our Parliaments claim the Privilege of refuſing as well as yours; and, if a Trial were to be made, ſuch a Refuſal might, perhaps, be found as inſignificant in *England*, as it now appears to be in *France*.

'This, I am apt to believe, my Lords, is the Way of Thinking in other Countries, as well as *France*; and, if a general Vote of Credit and Confidence ſhould once become a ſort of cuſtomary Compliment from the Parliament to the Crown, at the End of every Seſſion, or as often as our Miniſters may think fit to deſire it, this may become the Way of Thinking at home as well as abroad. If this ſhould ever come to be the Caſe, our Parliaments will of courſe become deſpicable in the Eyes of moſt of our own People; and, when the Form of an Act of Parliament begins to be contemned, a Proclamation may eaſily and ſafely be ſubſtituted in its ſtead. It would, indeed, be happy for the Nation, it were ſo; for when a Parliament ceaſes to be a Check upon Miniſters, it becomes an uſeleſs and unneceſſary Burden upon the People. The Repreſentatives of the People in Parliament,

Ann. 12 Geo. II. 1739.

ment, must always be paid, some way or other, by the People: If their Wages are not paid openly and fairly by their respective Constituents, as they were formerly, a Majority of them may, in future Times, be always ready to accept of Wages from the Administration, which must, at last, come out of the Pockets of the People, and will fall with a much greater Weight upon them, at the same Time that it renders their Representatives of no Use to them. There is no Way of preventing this, but by putting it out of the Power of Ministers to pay Wages, either to the Electors or Elected; and this can be no way done, but by strictly confining public Grants to public Services, according to the Estimates previously delivered in to Parliament.

'But suppose, my Lords, our Constitution could be no way endangered by a Compliance with this extraordinary Demand, I do not think it is in our Power to comply with every Article of it. To enable his Majesty to augment his Forces by Land, is what, I think, we cannot do, by a Vote of this House. We have already, by the Mutiny-Bill, limited the Number of Land Forces, for the Service of this ensuing Year, to 17,704 Men. By that Bill, which is already passed into a Law, we say that the whole Number of Men for Guards and Garrisons in *Great Britain*, to be kept up for the ensuing Year, shall be 17,704 Men; and shall we pretend, by a Vote of this House, to enable his Majesty to keep up a greater Number? Would not this be re-repealing an Act of Parliament by a Vote of this House? Will any Lord pretend to say we have such a Power? By the Mutiny Bill, my Lords, a certain limited Number of Men are divested of the Privileges they enjoy as *British* Subjects, and made liable to martial Law: Can we add to this Number by a Vote? Can we, by such a Method, divest any one single Man in the Kingdom of any Privilege he enjoys as a Subject of *Great Britain?* Such a Pretence, my Lords, may be of the most dangerous Consequence: If we once begin to assume such a Power, I shall expect, in a little Time, to hear it insisted on, that the *Habeas Corpus* Act, or *Magna Charta* itself, may be suspended by a Vote of this House; and as such a Vote may be obtained by Surprize, and the Parliament immediately dissolved or prorogued, we may judge what a precarious State the Liberties of this Nation would be in, should the least Pretence be given for introducing such a Maxim.

'Therefore, my Lords, however fond we may be of complying with the first Part of this Message, I think it is evident, that we neither can nor ought to comply with the second. Let us but consider the Circumstances we are in with

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regard to *Spain*, and we muſt think it a little odd, that ſuch a Meſſage ſhould have been ſent to us at ſuch a Time. In leſs than a Fortnight we ſhall be able to determine poſitively, whether we are to have Peace or War. If we are to have Peace, there was no Occaſion for ſending ſuch a Meſſage, there can be no Neceſſity for our complying with it: unleſs we have a Mind to make a Breach in our Conſtitution, out of mere Compliment to the Miniſter: And if we are to have War, we ought to provide for the Proſecution of that War, in a regular and Parliamentary Method. The 24th of this Month, is the laſt Day *Spain* has for paying the 95,000 *l.* ſtipulated by the late Convention. If they fail of Performance, we muſt go to War: It would be diſhonourable to the laſt Degree, to ſue for a Performance of that Article, by any other Means than the Mouth of our Cannon. But, if they pay that Sum of Money, on or before that Day, tho' it be but a ſmall Recompence for the Damages we have ſuſtained, yet I ſhall think it a certain Omen of Peace, becauſe I ſhall look upon it as a Teſtimony of their having a real Inclination to do us Juſtice. For this Reaſon, I think, the only proper Method we can take upon this Occaſion, is to reſume the Houſe *, and adjourn the Conſideration of his Majeſty's moſt gracious Meſſage, to the 25th of this Month; for, if it ſhould then appear, that we muſt go to War, I am ſure, no Lord in this Houſe can be more zealous than I ſhall be, for enabling his Majeſty to proſecute the War, in the moſt vigorous and effectual Manner.

The Lord Chancellor.

The Lord Chancellor.

'As moſt of the Arguments that have been urged againſt our complying with this Meſſage, have been chiefly directed againſt that part of it, by which his Majeſty hopes to be enabled and ſupported by his Parliament, in making ſuch further Augmentation of his Forces, either by Sea or Land, as may become abſolutely neceſſary, and in concerting ſuch Meaſures as the Exigency of Affairs may require; I ſhall confine what I have to ſay upon the Subject, to that Part of the Meſſage; for I cannot think the noble Lord who propoſed reſuming the Houſe, was ſerious when he made that Propoſition. I cannot think, he really intended we ſhould defer a Moment giving his Majeſty the utmoſt Satisfaction, as to that Part of the Meſſage which relates to the Treaty with *Denmark*. The noble Lord himſelf gave one of the beſt Reaſons that can be thought of, for an immediate Compliance with that Part of the Meſſage. He told us, that in our

* The Houſe was then reſolved into a Committee.

Ann. 12 Geo. II. 1739.

our preſent Circumſtances, it was neceſſary for us to bring ſeveral other Powers, beſides that of *Denmark*, into an Alliance with us. Whether this be ſo or not, I ſhall not pretend to determine; but if it is, I am ſure, we ought not to delay, one Moment, our coming to a Reſolution to approve of this Treaty with *Denmark*, and to declare that we will enable his Majeſty to make good the Engagements he has thereby entered into. What a Damp would it throw upon his Majeſty's Negociations, for concluding Treaties of Alliance with the other Powers of *Europe*, if they ſhould hear, that the Parliament had delayed approving of the very firſt Treaty of that kind, which his Majeſty has thought fit to make upon the preſent Occaſion. This would of courſe put a Stop to all his Majeſty's Negociations at foreign Courts, and at ſome of them, it might be the Occaſion of an abſolute Diſappointment; becauſe it might, it probably would, make ſome of them immediately reſolve to accept of the Terms offered by our Enemies, who are now endeavouring to out-bid us at every Court in *Europe*.

'Therefore, my Lords, I hope we ſhall immediately agree to what the noble Duke has been pleaſed to propoſe, with regard to the firſt part of this Meſſage, whatever we may do as to that which regards the ſecond. But, even as to the ſecond, I cannot think there is the leaſt weight in any of the Objections that have been made againſt our complying with it. Our Conſtitution can be no way endangered by the Parliament's giving the Crown their Authority, to do what it may do without any ſuch Authority. By the very Nature of our Conſtitution, the Crown has, during the Receſs of Parliament, a ſort of dictatorial Power to take care *ne quid Detrimenti Reſpublica capiat*; and, in conſequence of this Power, his Majeſty may augment his Forces, both by Sea and Land, if it ſhould become abſolutely neceſſary, and he may concert ſuch Meaſures as any ſudden Exigency may require, without a previous Authority from Parliament for that Purpoſe. When it can be foreſeen, that ſuch a Neceſſity may probably happen, or that ſuch an Exigency may probably ariſe, the Authority of Parliament ought to be previouſly aſk'd; and, when that Probability appears to be in any high Degree, either from the Circumſtances of Affairs at the Time, or from what his Majeſty then communicates, the Parliament ought to grant the Authority demanded. Such a Meſſage from the Crown, or the Parliament's complying with that Meſſage, is ſo far from being inconſiſtent with, that it is highly agreeable to our Conſtitution; becauſe, the ſending of ſuch a Meſſage, is a Token of that Regard which the Crown ought always to have for the Authority of Parliament, and a Compliance

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with it, is a Teſtimony of that Concern which the Parliament ought always to have for the public Safety.

'I am not at all ſurpriſed, my Lords, that no ſuch Meſſage was ever heard of before the Revolution. Before that happy Settlement of our Conſtitution, moſt of our Kings ſhewed as little Regard to our Parliaments as they poſſibly could. They never aſked either the Advice or Authority of Parliament, but when it was abſolutely neceſſary for them to do ſo. Nay, they were ſo fond of Prerogative, and of acting by that alone, that they attempted too many Things by virtue of Prerogative, which ought not to have been done without the Authority of Parliament. But as King *William* never made uſe of the Prerogative of the Crown, but in Caſes in which only it ought to have been made uſe of, that is, when the public Safety made it neceſſary, he applied by Meſſage for the Authority of Parliament, as often as he had Occaſion: Queen *Anne* did the ſame: His late Majeſty could not fail of following ſo good an Example; and if ſuch Meſſages have been more frequent in this Reign than in any former, it muſt have proceeded from the many Changes that have lately happened in the Affairs of *Europe*, and the extraordinary Regard his preſent Majeſty has for the Privileges and Authority of Parliament. It could proceed from no ſiniſter Deſign; becauſe no bad Uſe has been made of the ready Compliance, his Majeſty has met with from his Parliament upon every ſuch Occaſion. It cannot be ſo much as inſinuated, that, in conſequence of theſe Compliances, his Majeſty has put the Nation to any unneceſſary Expence, or that the Expences the Nation has been put to, in conſequence of the Confidence repoſed from Time to Time in his Majeſty, have not been regularly and ſtrictly accounted for; and therefore, during his preſent Majeſty's Reign at leaſt, I ſhould think, that our paſt Experience ought to be ſufficient for removing all future Jealouſy.

'But ſuppoſe, my Lords, that our former Kings had all endeavoured as much to ſhew a Regard for the Authority of Parliament, as ſome of them did endeavour to ſhew a Contempt of it, yet, before the Revolution, there was no Occaſion for any ſuch Meſſage, becauſe the Cuſtom of appropriating the public Grants to their reſpective Services did not till then take Place. Before that Time, the public Grants were made without any Appropriation; ſo that the King, or his Servants by his Authority, could apply the Money to ſuch Services as they thought moſt preſſing; and, if any ſudden Emergency happened, which required an extraordinary and immediate Expence, the Services that were not ſo preſſing, were put off, or left unſupplied, till the Parliament

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ſhould meet, in order to make a new Proviſion for them, and the Money deſigned for them was applied to thoſe unforeſeen Exigencies which demanded an immediate Supply. Whereas, ſince the Cuſtom prevailed, of appropriating all Parliamentary Grants to their reſpective Services, no Miniſter can, even by his Majeſty's Authority, apply to one Service, however urgent, what has been appropriated by Parliament to another; and therefore, when there is a Probability, that ſome Services may accidentally ariſe, during the Receſs of Parliament, that could not be foreſeen, or that could not be regularly provided for by Parliament, it becomes neceſſary to furniſh his Majeſty with ſuch a Credit and Confidence, as is demanded by the ſecond Part of the Meſſage, now under our Conſideration.

'As this Credit and Confidence, my Lords, can laſt no longer than till next Seſſion of Parliament, and as every following Seſſion of Parliament muſt neceſſarily begin, within ſeven or eight Months after the Expiration of the preceding, it is impoſſible to ſuppoſe, that any ſuch Vote of Credit and Confidence can ever be of dangerous Conſequence to our Conſtitution; becauſe, in ſo ſhort a Time, it will always be impoſſible to raiſe and diſcipline ſuch a Number of Forces, or to levy ſuch Sums of Money, as would be neceſſary for overturning the Liberties of this Nation; eſpecially, if we conſider, that, by Virtue of ſuch a Vote of Credit and Confidence, his Majeſty can impoſe no Taxes, nor force any Loans, nor can any Man thereby be compelled to liſt in his Majeſty's Land Service. If the Adminiſtration ſhould attempt to levy Forces, or borrow Money, without any apparent Neceſſity, the People would immediately become jealous of their having Deſigns againſt the Liberties of their Country; and, in that Caſe, no Man would lend Money to the Government, or liſt in the Government's Service; even the Officers of the Army themſelves, would be apt to declare againſt ſuch new Levies, and if they did not refuſe to obey, they would certainly be very negligent in fulfilling the Orders iſſued for that Purpoſe; which would of courſe render the Deſigns of the Adminiſtration abortive, and next Seſſion of Parliament would certainly puniſh them for the Attempt.

'Thus it muſt appear, my Lords, that our Conſtitution can be brought into no Danger, by our complying with what is propoſed; and as to our having a Power to comply with every Thing demanded by this Meſſage, I wonder to hear it made the leaſt Doubt of. We have not, my Lords, by the Mutiny Bill, confined or limited the Number of Troops to be kept up for the enſuing Year. We had no Occaſion to do ſo; becauſe, the keeping up of any Number of Troops,

Troops, within this Kingdom in Time of Peace, without Consent of Parliament, is, by the Nature of our Constitution illegal, and is expresly declared to be so, not only by the Claim of Right, but by the Preamble to that very Bill itself. For this Reason, a certain Number of Troops is mentioned in the Preamble to that Bill, in order that we may give our Consent to the keeping up of that Number; but none of the enacting Clauses relate to that Number, or any other Number. They relate to all the Troops that shall be kept up; and if, by any future Vote, we give our Consent to the keeping up of a greater Number than is mentioned in the Preamble of that Bill, the enacting Clauses relate to, and comprehend the additional Number, as well as the Number mentioned in the Preamble. Therefore, the Resolution we may come to upon this Occasion, can no way be understood as a Repeal, or as an Alteration of the Mutiny-Bill: It can be considered only as a Signification of the Consent of Parliament, to the keeping up of a greater Number of Troops than were thought necessary when the Mutiny-Bill was passed; and surely the Consent of Parliament may be signified by a Vote or Resolution, in Pursuance of a Message from his Majesty, as well as by the Preamble to a Bill. Ann. 12. Geo. II. 1739.

'We do not, my Lords, by the Resolution now proposed, subject any Man in the Kingdom to martial Law, nor do we divest any Man in the Kingdom of the Privileges he enjoys, or ought to enjoy, as a Subject of *Great Britain*. It is already done to our Hands, by the Mutiny-Bill, which is now passed into a Law By that Bill, every Man that shall voluntary list himself in his Majesty's Land Service, without any Restriction as to the Number of Men so to be listed, is made liable to martial Law; and, by the Resolution now proposed, we only give our Consent to his Majesty's taking a greater Number into that Service, than we consented to by the Preamble of that Bill. There is nothing thereof in what is now proposed, that can furnish the least Pretence for laying it down as a Maxim, that the *Habeas Corpus* Act, or any other Act, can be suspended by a Vote of both, or either House of Parliament.

'From what I have said, my Lords, I hope it will appear, that there is no Weight in any of the Objections made to our complying with this Message. But, in my Opinion, our refusing, or even delaying to comply, may, in the present ticklish Conjuncture of Affairs, be attended with the most fatal Consequences. *Spain* has already long depended upon gaining some Advantage from our intestine Divisions. It is to this only, we can with Justice impute the Obstinacy

Ann. 12 Geo. II. 1739.

they have ſhewn in refuſing to do us Juſtice. They have, at laſt, promiſed to make us ſome Satisfaction for paſt Injuries; and the Term allowed them for performing that Promiſe, is now near expired; but, if the 95,000 *l.* which they are to pay to us on that Account, were now in *London*, and ready to be paid, I do not know but our delaying to give his Majeſty the Satisfaction of complying with his moſt gracious Meſſage, would prevent that Sum's being paid within the Term limited. The Agents for *Spain* would immediately begin to expect a Breach between his Majeſty and his Parliament, which would of courſe encourage them to delay making that ſtipulated Payment, till they had new Inſtructions from *Spain*; and thus, by delaying to agree with his Majeſty's Meſſage, we ſhould render a War unavoidable, at the ſame Time that we rendered it impoſſible for his Majeſty to provide for it, either by Alliances abroad, or Armaments at home. For theſe Reaſons, I ſhall moſt heartily join with the noble Duke in the Motion he has made, and I hope we ſhall have the Concurrence of a Majority of this Houſe.

Duke of *Argyle*.

Duke of *Argyle*.

'My Lords, it is no new Thing to ſee the Demands and the Projects of Miniſters uſhered into this Houſe under the Name of our Sovereign: When any extraordinary Demand is to be made, or when any dangerous Powers are to be aſked for by our Miniſters, it has always been their Cuſtom to ſcreen themſelves under the ſacred Name of Majeſty; and when ſuch Demands are oppoſed by thoſe who have a true Regard for their Sovereign, but no very great Regard, perhaps, for his Miniſters, the Advocates for thoſe Demands, are ſure to follow the Example that has been ſet them, by introducing his Majeſty's Name into every Part of the Debate. Our Miniſters aſk a Power to put the Nation to what Expence they pleaſe, and as an Argument for our complying with this Demand, we are told, his Majeſty never put the Nation to any unneceſſary Expence: Our Miniſters aſk ſuch Powers as will of courſe, if they are frequently granted, render Parliaments of no Uſe to the People, whatever they may be to an Adminiſtration; and to induce us to render ourſelves uſeleſs, we are told, that this modeſt Demand proceeds from the great Regard his Majeſty has for the Authority of Parliament.

'This, my Lords, is a Way of arguing, that muſt lay your Lordſhips under great Difficulties, and is, I am ſure, no Sign of any true Regard for the King, whoſe Name ought never to be introduced into any Debate; therefore I wiſh

that all such Messages were sent hither in the Name of those that advise them, whom I shall always look on as the Persons that really send them. It is upon me, particularly, a great Hardship, to see any Thing sent hither in his Majesty's Name, which I do not approve of; for, as the King is not only my Sovereign, but my Master, it is with the utmost Reluctance I can say any Thing against a Proposition that appears in his Name. But, my Lords, I know his Majesty so well, I am so well assured of the Regard he has for our Constitution, that I cannot look upon this anti-constitutional Message as coming from him. I must consider it as a Message from some of his Ministers, and I shall treat it accordingly.

'It is a Message, my Lords, of a most dangerous Nature; for if such Messages should be frequently sent, and frequently complied with, it will end in a total Overthrow of our Constitution. The Business of Parliament is to prevent its being possible to run the Nation into any needless Expence; for after a needless Expence is incurred, we may punish the Advisers, but there is no recalling the Expence. The guilty Head of a wicked or weak Minister is but a poor Atonement to the Nation; and his Fortune, however immense, may prove but a very insufficient Recompence for the Damage the Nation may suffer, and the Charge it may be put to, by one ridiculous or imprudent Measure. For this Reason the Parliament ought to examine and judge of the Services, before they think of granting Funds for supplying those Services; and it is for this Reason, that particular Estimates of the respective Services necessary for the ensuing Year, are always laid before Parliament. From those Estimates we can judge, not only of the Services intended, but also of the Sums necessary for supplying those Services; and, if we disaprove of the Services, we may, and ought, to refuse granting any Funds for their Supply; or, if we think the Sums demanded too large, we may, and ought to grant no more than what shall appear to be absolutely necessary for the Supply of those Services we approve of. But by granting such a Vote of Credit and Confidence as is demanded by this Message, we can neither judge of the Measures intended, nor of the Sums necessary for the Execution of those Measures; whereby we render ourselves quite useless, as to that of being able to prevent the Nation's being put to any unnecessary Expence: Therefore, if such a Vote as this now demanded, should once come to be an usual, methodical Conclusion to each Session of Parliament, I shall then begin to think Parliaments of no Use to. I shall think them a most unnecessary Burden upon the People.

Ann. 12 Geo. II. 1739.

'We are told, my Lords, that an Account ſhall be laid before next Seſſion of Parliament, of all the extraordinary Expences the Nation may be put to, by Virtue of the Credit and Confidence now demanded. What ſignifies this to the Nation? Will this make good the Expence that may be unneceſſarily incurred? Will this atone for the Damage the Nation may ſuſtain by a raſh or ridiculous Project? Such an After-account can, in my Opinion, never be of the leaſt Signification. I ſhall never think, that a Parliament that will grant ſuch a Credit and Confidence, will ever find Fault with any Expence the Nation may be put to in Purſuance of that Credit and Confidence, or that they will find Fault with any Article in the Account. In ſuch a Parliament, I ſhall always expect to ſee panegyrical Votes of Approbation paſſed in every following Seſſion, with regard to thoſe Meaſures that were undertaken, and thoſe Expences that were incurred, in Purſuance of a Vote of unlimited Credit and Confidence paſſed in the preceding. And if a new Parliament ſhould intervene, there is nothing can be of more Service to a Miniſter, for enabling him to get a Houſe of Commons to his Mind, than his being appointed the ſole and whole Executor of the expiring Parliament. Therefore, if a Check be not put to the ſending of ſuch Meſſages as this, now under our Conſideration, I ſhall ſoon expect to ſee every Seſſion of Parliament open with a general Approbation of all the Miniſter has done in Time paſt, and conclude with a general Power to do whatever he pleaſes in Time to come.

'My Lords, let us but examine the Arguments made uſe of upon this Occaſion, and we ſhall find, that moſt of them may, with equal Weight, be made uſe of at the End of every Seſſion. We are told, that, during the Receſs of Parliament, his Majeſty has a Sort of dictatorial Power, which would enable him to do all that is deſired by this Meſſage, and that therefore our Conſtitution can never be in any Danger, by our giving him an Authority to do what he might do without any ſuch previous Authority. Is not this my Lords, an Argument that may be made uſe of with equal Weight at the End of every Seſſion? Can we ſuppoſe a Time when it may be poſitively affirmed, that no ſudden Emergency can ariſe during the Receſs? We can now, or at leaſt we may in a few Days, as certainly foreſee what will happen during the Receſs, as we can ever do at the End of any Seſſion of Parliament. Therefore, the Timing of this Meſſage deſerves our particular Notice. It ſeems calculated for eſtabliſhing it as a Cuſtom, that at the End of every Seſſion, our Parliament ought to inveſt our Miniſters with an abſolute Power, and an unlimited Credit. I ſhall grant,

that

that in case of a very sudden and very imminent Danger, the Crown has a Sort of dictatorial Power; but I will say, that in such a Case, the Parliament ought to be assembled as soon as possible. I will say, that no good Man, no wise Minister, would advise the Crown to make use of that Power for one Week longer than Necessity required; so that the Exercise of it can never, by our Constitution, last for above five or six Weeks; whereas, by granting such a Parliamentary Authority as is now demanded, we give our Ministers an Authority, or at least a Pretence, for exercising that dictatorial Power for seven or eight Months. In the former Case, the Exercise of it can never be of any dangerous Consequence, because our People would not submit to it, if exercised without an apparent Necessity, or without summoning the Parliament to assemble as soon as possible; and in so short a Time no dangerous Use can be made of it. But when the Exercise of this Power is founded upon a previous Authority from Parliament, the People will submit to it without Enquiry; and, in so long a Time, such an Use may be made of it, as may render it perpetual; for our Ministers, in such a Case, would never allow the Parliament to assemble, unless they were sure of having such a Parliament as would begin the Session, by approving of the Use they had made of their Power, and conclude the Session with giving them a Renewal of their Term.

'If we are to have Peace, if there is the least Probability that *Spain* will comply, even with that nominal Satisfaction we have submitted to accept of, there can be no Reason for our complying with this Message, there could be no Reason for sending it, beside that I have mentioned. But, my Lords, I am far from thinking that we shall have Peace. I believe we must at last go to War. The *Spaniards* will do nothing, as long as they have such a contemptible Opinion of us. We must beat them into a better, I hope a righter Opinion of us, before we can expect they will give us either Satisfaction or Security. If this be the Case, why do not our Ministers tell us so? The King, I know, is for laying every Thing before us. The Ministers ought: It is their Interest to do so. It is the Interest, at least of the Majority of them, to lay every Thing fairly and openly before Parliament. We could then provide for War in a regular, Parliamentary Method. But this, we are told, would be divulging the Secrets of the Government: It would be declaring War against *Spain*, before we have provided for carrying it on. What! are we then to steal a War upon the *Spaniards*? Are we to steal a Satisfaction from that contemptible, tho' insolent Nation?

'My

Ann. 12 Geo. II. 1739.

'My Lords, we have no Occaſion to do ſo; and I am ſure we ought not to make an Encroachment upon our Conſtitution for ſuch a needleſs, ſuch an inſignificant Purpoſe. If the War be proſecuted in a proper and vigorous Manner, we now have, or may have, before they can prepare for their Defence, a ſufficient Force both at Land and Sea; a Force that may fully enable us, not only to defend ourſelves, but to revenge, in the moſt ample Manner, the Inſults they have put upon the Nation, and the Depredations they have committed upon our Merchants. This, I ſay, we have a Power to do, but God knows what may be done, if our warlike Meaſures be conducted with the ſame ſort of Spirit, that our peaceable Meaſures have been for ſo many Years paſt. I have, my Lords, lived a long while in the World: I have lived ſo long as to wonder at nothing.——I beg Pardon, there is ſtill one Thing I ſhould wonder at: I ſhould wonder, if thoſe who have brought us into ſuch a deplorable and contemptible State, ſhould ever be able to bring us out of it, or to recover either our Character or their own.

'For God Sake, my Lords, what are we afraid of? Are we are afraid of *Spain*? That cannot be. Are we afraid leſt *Spain* ſhould be ſupported by *France*? What then? Muſt we do nothing but what *France* gives us Leave to do? Muſt we make a Sacrifice of our Trade, our Navigation, our Honour, becauſe *France* commands it, and threatens us with Correction, if we do not obey. My Lords, we had better ſubmit to become a Province to *France*, becauſe they would then think themſelves obliged to defend us. But this I ſhall never ſubmit to, I ſhall chuſe to die with my Sword in Hand, rather than meanly live to ſee my Country made a *French* Province; and if this ſhould ever come to be the Queſtion, hope I ſhould ſtill find in this Kingdom many Companions; I am ſure every *true Briton* would ſhare the ſame Fate with me. With ſuch Men, to live or not to live, can never be the Queſtion of moſt Importance. To live freely, or die bravely, has been the Reſolution of our Anceſtors in all Ages paſt; I hope it is the Reſolution of the preſent Generation, I hope it will be the Reſolution of our Poſterity in all Ages to come.

'With regard to *Spain*, my Lords, if they do not give us immediate Satisfaction, we are under an abſolute Neceſſity of declaring War, let who will take their Part. The principal Affair in Diſpute between them and us, is of ſuch a Nature, that even *France* will not, I believe, take their Part; and I believe it, becauſe it is neither her Intereſt to do ſo, nor is ſhe prepared for it. It is not the Intereſt of *France* to eſtabliſh thoſe Claims which the *Spaniards* have lately

lately ſet up againſt us; becauſe they may one Day be made uſe of againſt *France* as well as againſt us. And ſuppoſe the *French* ſhould miſtake their Intereſt, which they ſeldom do, what can they do againſt us? They can make uſe of nothing but a naval Force againſt us, which they are at preſent unprovided with; and in caſe of an open War, we may take Care they never ſhall. The *French* Court may encourage the Claims of *Spain*, whilſt they are made to operate only againſt this Nation; becauſe every Thing that is a Diſcouragement to our Trade, is an Encouragement to that of *France*. They may even bully and hector, in order to make us ſubmit as patiently to the Claims of *Spain* for twenty Years to come, as we have done for twenty Years paſt; becauſe, by ſuch a Submiſſion, the Trade of this Kingdom would be very much leſſened, and their Trade as much advanced; but if we once begin to reaſſume our ancient Character, if we once reſolve to vindicate the Rights of our Country, notwithſtanding the unfortunate Situation the Affairs of *Europe* are by ſome late Meaſures reduced to, yet, I believe, *France* will be extremely cautious of engaging in a War, for ſupporting *Spain* in Claims which all the World muſt ſee to be unjuſt. Againſt this Nation, their numerous Land Armies ſignify nothing, without a ſuperior naval Force, and that, they know, they neither have, nor could provide themſelves with in Time of War. The certain Conſequence of a War with this Nation, would be a full Stop to their Trade, and, if well conducted on our Part, it might be attended with the Ruin of moſt of their Settlements in the *Eaſt* and *Weſt Indies*; which is a Riſk we can hardly ſuppoſe the *French* will run, for the Sake of ſupporting *Spain*, in Claims that may hereafter be made to operate againſt themſelves. Beſides this Danger, whatever our own Miniſters may think, the *French* Miniſters know, that this Nation has many natural and powerful Allies upon the Continent, and they likewiſe know, that vigorous Reſolutions, vigorouſly and wiſely executed, would reconcile to us thoſe Allies whom our late Conduct has eſtranged from us. From all which, my Lords, I muſt be of Opinion, that the Danger of *France*'s engaging in the War, is not near ſo hideous as the daſtardly Imaginations of ſome People may repreſent. I am perſuaded, they will not venture to engage, unleſs they foreſee, that the ſame Spirit, which has rendered our peaceable Meaſures ineffectual, may probably have ſuch an Influence, as to render moſt of our warlike Meaſures abortive.

Ann. 12 Geo. II. 1739.

But, my Lords, if we do go to War, I hope the natural Spirit of this Nation will revive, I hope it will begin to exert itſelf; and if it does, I am ſure it will get the bet-

Ann. 12 Geo. II. 1739.

ter of every Thing that can, of every Man that dare oppoſe it. I muſt therefore think we have nothing to apprehend, for this Year at leaſt, from *France*; and againſt *Spain* alone, we have no Occaſion to make a Secret of our Deſigns. We have now a Fleet at Sea, ſuperior to any they can fit out againſt us: We have a Number of Troops to put on Board, ſufficient for attacking them in that Part, where alone we ought to attack them. What then ſhould hinder us from declaring War, the Moment we find they deſpiſe us ſo much as to diſregard every Engagement they make with us? Why ſhould we make an Encroachment upon our Conſtitution for the ſake of concealing that Reſentment, which, the ſooner it is mainfeſted, the more it will tend to our Honour? In leſs than a Fortnight the Chance of Peace or War will be determined. If the Court of *Spain* does not, in that Time, comply with what they have ſo ſolemnly promiſed, it will be proper for his Majeſty to come to his Parliament, and declare from the Throne, that we muſt provide for War. The ſending of ſuch a Meſſage as this, at ſuch a Time, ſeems therefore to have been calculated by our Miniſters, for nothing elſe but to render the ſending of ſuch Meſſages familiar to the People, and the complying with them habitual to the Parliament.

Our not complying with the laſt Part of this Meſſage, can be attended with no bad Conſequence: We may comply with, and approve of the firſt, without taking Notice of the laſt: We ought to comply with the firſt, becauſe it is reaſonable, and becauſe we may do ſo without any Breach of our Conſtitution. It is a certain, limited Demand, and ſuch a Demand as ought to be provided for by Parliament. Therefore I ſhall readily agree to the Addreſs of Thanks propoſed, ſo far as it relates the firſt Part of this Meſſage; but that Addreſs ought, I think, to be accompanied with another of a very different Nature. However, as this is not the Queſtion now before us, I ſhall wave ſaying any Thing upon it, till I ſee the Fate of the preſent Queſtion.

Earl of *Cheſterfield.*

Earl of *Cheſterfield.*

'My Lords, as the firſt Part of this Meſſage bears no Reſemblance nor Relation to the laſt, and as moſt Lords who have ſpoke upon the preſent Queſtion ſeem to approve of it, ſo far as it relates to the firſt Part of the Meſſage now before us, I ſhall give your Lordſhips no Trouble upon that Head. But as to what is demanded by the laſt Part of this Meſſage, your Lordſhips may call it a Vote of Credit, or a Vote of Confi-

Confidence, or both, if you will: Let the Demand be what it will, our comp'lying with it will, in my Opinion, be placing a much greater Confidence in, and giving a larger Credit to our preſent Miniſters, than any Miniſters ought, by our Conſtitution, to be truſted with. I ſhall never be for giving to any Miniſters an unlimited Power to raiſe what Number of Troops, and what Sums of Money, they may think neceſſary; and upon this Occaſion I am the more againſt it, becauſe of its being aſked at ſuch a critical Conjuncture. We may, perhaps, be under ſome Uncertainty at preſent: There may, perhaps, be at preſent a Probability, that we ſhall ſoon be obliged to declare War againſt *Spain*; but in a few Days that Uncertainty will be at an End, and that which ſome are now pleaſed to call a Probability only, will, in my Opinion, within a Fortnight, become a Certainty; for if the 95,000*l.* be paid on the 24th of this Month, we may look upon it as an Earneſt of Peace, we may from thence conclude, that the *Spaniards* are at laſt reſolved to do us Juſtice; in which Caſe we can have no Occaſion for raiſing more Troops, or larger Sums of Money, than have been already agreed to by Parliament, in a regular Parliamentary Method. On the other hand, if this Sum of Money be not paid upon the Day appointed, I hope we ſhall at laſt have done with Negotiation: I hope no Man will imagine, we are to purchaſe another ineffectual and colluſive Convention, at a new Expence of 4 or 500,000*l.* This Seſſion is, 'tis true, drawing towards a Concluſion; but there is no Neceſſity for putting an End to it before the 24th of this Month: and if the Parliament be then ſitting, and the Money not paid by *Spain*, what ſhould hinder us from providing for War, in that Method which is moſt agreeable to our Conſtitution?

This Meſſage therefore, my Lords, ſeems to me, to be deſigned for nothing but that of eſtabliſhing the Cuſtom of concluding each Seſſion of Parliament with a Vote of Credit and Confidence, without the leaſt Neceſſity or Occaſion; and this I cannot agree to, becauſe I think it will be of the moſt dangerous Conſequence to our Conſtitution. During the Receſs of Parliament, the Crown may have, by our Conſtitution, a Sort of dictatorial Power; but that Power will become much more dangerous when founded upon the previous Authority of Parliament. Our People have a Sort of implicit Faith in their Parliaments, and will always be leſs jealous of the Exerciſe of any extraordinary Power, when it is founded upon the Authority of Parliament, than when it is founded upon an emergent

Ann. 12 Geo. II. 1739.

Neceſſity only. The dictatorial Power was upon many Occaſions of great Service to the *Romans*, and whilſt it was kept within its ancient Bounds, it was never attended with any Inconvenience or Danger. It was originally limited to the Term of *ſix Months* at fartheſt, and was generally reſigned before that Term expired; but the ſecond Man to whom it was granted for a longer Term, put an End to the Liberties of that Republic.

This ſhews, my Lords, how dangerous it is, in a free State, to depart in the leaſt from any of thoſe Regulations, that were eſtabliſhed by our Anceſtors, for limiting the Power of our Miniſters, which is always what is really meant, when we talk of the Power or Prerogative of the Crown. Under thoſe Regulations we have lived happy, we have lived free, for many Ages; but no one can tell what Conſequences the leaſt Departure may be attended with. It is allowed, that no Vote of Credit was ever granted before the Revolution, therefore every ſuch Vote muſt be a Departure from our antient Conſtitution, and conſequently muſt be dangerous; and every one will allow, that we ought not in Prudence to expoſe ourſelves to any Danger, without an apparent Neceſſity. If the Crown has, during the Receſs of Parliament, a ſort of dictatorial Power, may it not be now as freely exerciſed, as it was before the Revolution? May it not in Time to come be as ſufficient for protecting us againſt ſudden and unforeſeen Dangers, as it has been for ſo many Ages paſt? We are told, that the Method of Appropriation, introduced ſince the Revolution, makes this impoſſible. My Lords, let us but conſider the State our public Revenues were in before the Revolution, and we ſhall find there is nothing in this Argument. Before the Reſtoration, the Crown had no eſtabliſhed Revenue, but what was ſcarcely ſufficient for ſupporting what we now call the Civil Liſt; and they had ſeldom any Credit to borrow Money from private Hands, even upon the moſt preſſing Emergency. After the Reſtoration, indeed, we became a little more generous: A large, public Revenue was ſettled upon the Crown; but that Revenue was appropriated as much as it is now, tho' not in ſo expreſs Terms. A Part of it was allotted for ſupporting the Civil Liſt, another Part for paying the few Guards and Gariſons, that were then kept up, and a third Part for ſupporting the Navy. If any of theſe Services had been neglected, and the Money converted by our Miniſters to other Uſes, I believe the Parliament would have then been more ready to have inquired into, and puniſhed ſuch Miſapplication, than they have ever appeared to be ſince that Time; and the Crown had, after the Reſtoration, as well as before, but very little

little Credit for borrowing Money from private Hands. During the Receſs of Parliament, the Crown had no Reſource againſt ſudden Emergences, but that of making uſe of the little Credit it had for borrowing Money from private Hands, or that of leaving the Penſions and Salaries of Courtiers unpaid, and converting that Money to the Service of the Nation. This made it always neceſſary for the Crown to call a Parliament as ſoon as poſſible, and the Parliament replaced what had been laid out for the public Service, if they approved of it, or they put a Stop to the Expence, if they diſapproved of the Service.

'Now, my Lords, let us conſider our public Revenue, as it ſtands at preſent; by which I mean, the whole Money raiſed yearly upon the People, by the annual or perpetual Grants of Parliament. It is now above three times as much as it ever was before the Revolution; and every Shilling of it paſſes now thro' the Fingers of our Miniſters, as well as it did then. One Part of it is allotted for the Support of the Civil Liſt, another Part of it for paying our Armies and Gariſons abroad and at home, a third Part of it for paying our Seamen, and ſupporting our Navy, a fourth for paying the Intereſt growing due yearly to our public Creditors, and a fifth for paying off yearly ſo much of the Principal, when we can keep our Miniſters from laying hold of it for warlike Preparations in peaceable Times. Theſe, my Lords, are the Uſes it is deſigned for, and to theſe it is appropriated; but in caſe of a ſudden Emergency, during the Receſs of Parliament, what ſhould hinder our Miniſters from leaving the Penſions and Salaries of Courtiers unpaid for a few Months, and applying that Money to the Service of the Nation? I believe the Parliament would be as ready to ſupply the Deficiency thereby occaſioned in the Civil Liſt, as ever they were to ſupply any pretended Deficiency in that Revenue: I am ſure they would have more Reaſon; and no Man in the Kingdom could find fault with our Miniſters, for adviſing the Crown to apply to the Safety of the Nation, in a Caſe of Neceſſity, that which was particularly appropriated to the Support of the Crown. But if this ſhould not be ſufficient, what ſhould hinder our Miniſters from contracting a ſmall Debt for the immediate Safety of the Nation? For that they may and do contract Debts without any previous Authority from Parliament, the great Navy-Debt lately paid off, the great Navy-Debt ſtill remaining due, and the many Grants that have been made for making good Deficiencies in the Civil Liſt, are ſufficient Teſtimonies. Therefore, as the Penſions and Salaries paid out of the Civil Liſt now amount to a much larger Sum than they ever amounted to before the Revolution,

Ann. 12 Geo. II. 1739. Revolution, and as the Crown has now much more Credit, both for contracting and running in Debt, than it ever had before that Time, I muſt conclude, that a Vote of Credit is now leſs neceſſary than it ever was, or could be, at any Time before the Revolution.

'Thus, my Lords, it muſt appear, that ſuch a Vote of Credit and Confidence, as is now deſired, is not only dangerous, but unneceſſary; and no Experience, no Precedent can warrant our running ourſelves into an unneceſſary Danger. We are not in this Houſe, nor any where elſe, to ſay, that his Majeſty has ever put the Nation to an unneceſſary Expence: It is, in my Opinion, a Failure in the Reſpect due to our Sovereign, to bring his Name into any ſuch Queſtion. But we may make a little more free with his Miniſters; and that they have, upon ſome Occaſions, put the Nation to an unneceſſary Expence, has been ſaid in this Houſe, and is now ſaid in every Corner of the Kingdom; nor will it be ſaid, I believe, by many Perſons in the Kingdom, that they have regularly and ſtrictly accounted for every Shilling of the many Millions that have paſſed through their Hands, for theſe twenty Years by-paſt. Therefore, if we judge from Experience, we can have no great Reaſon for giving them a Power to run the Nation as much in Debt as they pleaſe. Such a Power muſt always be of the moſt dangerous Nature; becauſe the more they run the Nation in Debt, the more they may depend upon having that Power renewed, the more ſecure will they be againſt being called to a ſtrict Account. Like the *Spaniſh* Governor, who, for his many Oppreſſions and Extortions, was recalled from his Command in *America*, their Security againſt Puniſhment will depend upon their having been guilty of every Crime that is laid to their Charge.

'But ſuppoſe, my Lords, there were no Danger in our complying with every Part of this Meſſage, and ſuppoſe there were a greater Neceſſity for it than there ſeems to be at preſent; yet, when I conſider to whom we are to give the extraordinary Powers aſked for, I cannot agree to it. I ſhall never agree to the Nation's giving an unlimited Credit to Miniſters, who, with me, never had any Credit; nor can I give my Conſent to the Nation's putting ſo much Confidence in a Miniſtry, in which I never could put any Confidence. My Lords, we have granted them ſuch Powers as this before now: We have never refuſed them any Thing; and yet they have never ſo much as once deviated into what, I think, may be called right. But, on the contrary, they have, in my Opinion, proſtituted the Honour, ſunk the Reputation, ſquandered the Wealth, and almoſt ruined the Trade of this Nation.

Nation. To me, my Lords, they ſeem to have been playing, for almoſt theſe twenty Years, at a ſort of Game of Hazard for Peace or War; and at laſt, by a lucky Nick, out ſtarted a Thing they call a *Convention*, which is neither one nor t'other; but is to be made either the one or the other, they cannot yet tell which, if we will but grant them ſome extraordinary and unuſual Powers, for enabling them to continue their Game. What their future Succeſs may be, I ſhall not now pretend to divine; but, I am ſure, I ſhall never be for giving unlimited Credit to ſuch aukward Gameſters. Ann. 12 Geo. II. 1739.

'As for that of empowering his Majeſty to augment his Forces: In caſe of a War, my Lords, he has no Occaſion for ſuch a Power: He may augment his Forces both by Sea and Land, without any ſuch Power; and if there is to be no War, I am ſure, he ought not to augment them, and much leſs ought we to give our Conſent. Nay, I do not think we can give our Conſent in the Method propoſed. The Conſent of Parliament ought always to be underſtood to be by a Law regularly paſſed, and agreed to by the three ſeveral Branches of our Legiſlature. It is upon this the Security of our Conſtitution depends, becauſe it prevents Surprize. Both Houſes of Parliament may be ſurprized into a Vote of the moſt dangerous Nature, by our Miniſters taking Advantage of an Opportunity when there are few Members in Town, but ſuch as they order to attend. Precedents, my Lords, are of an improving Nature: If it ſhould once be received as a Maxim, that the Parliament may, by a Vote, conſent to an Augmentation of our Army in Time of Peace, that Maxim may at laſt be extended to the altering, repealing, or making any Law the Crown may, by a Meſſage, pleaſe to deſire; therefore, I cannot agree to what a noble Lord has been pleaſed to ſay in this Debate, 'That the Conſent of Parliament may be ſignified by a Vote or Reſolution, 'in purſuance of a Meſſage from his Majeſty, as well as by 'the Preamble of a Bill.' I am far from contending with that noble Lord in Law-Learning or Diſtinctions, but notwithſtanding what he has ſaid, I muſt look upon the preſent Motion, if it be agreed to, as a Repeal of the Mutiny-Bill. I muſt ſuppoſe, that by the Word, *Whole*, in the Preamble of that Bill, we did not mean *a Half*, or any Number of Parts: I muſt ſuppoſe, we thereby meant to limit the Number of Troops to 17704 Men; and as every Clauſe in a Bill muſt relate to the Preamble, therefore, when there is a general Limitation in the Preamble of a Bill, that Limitation, without being repeated, muſt run through the whole, and muſt be ſuppoſed to be a Limitation upon every Clauſe; for which

Ann. 12 Geo. II. 1739. which Reaſon, I muſt be of Opinion, that no Clauſe in the Mutiny-Bill we have already paſſed, can relate to, or comprehend any Number of Troops above that which is mentioned in the Preamble. Nay, I do not know, but that the raiſing and keeping up a greater Number of Men, may render the whole Bill ineffectual, by making it impoſſible to determine who are within, or who are without the enacting Clauſes of that Bill.

'In my Opinion, my Lords, it is a moſt dangerous Doctrine, to pretend, that when a Law is paſſed for keeping a certain limited Number of Troops in Order, it muſt relate to, and comprehend all the Troops which our Miniſters may think fit to raiſe and keep up during the Continuance of that Law; becauſe, in ſuch a Caſe, it may be made to ſerve for obliging our Army to ſubdue, inſtead of defending their Country: And if it does not comprehend all the Troops which our Miniſters may think fit to raiſe and keep up, we muſt allow, that it cannot be made to do ſo by a Vote of either, or both Houſes of Parliament, unleſs we allow, that an Act of Parliament can be altered or amended by a Vote; and if it can be altered or amended, we muſt allow, that it may be repealed by the ſame Method. Thus, by agreeing to this Meſſage, we muſt eſtabliſh a moſt dangerous, and, I think, a falſe Doctrine, of the one Side or the other.

'It ſignifies nothing, my Lords, to ſay, that, by our complying with this Meſſage, no Man is to be compelled to enter into his Majeſty's Land-Service: We know how ready young Gentlemen are to accept of Commiſſions in the Army, and a great Number of new Officers will always get a great Number of Men to liſt voluntarily into the Service. When Commiſſions are granted, and Orders for new Levies iſſued, we are not to ſuppoſe, that the Officers, when they accept their Commiſſions, will be told, that they are to be employed in ſubduing the Liberties of their Country; nor are we to ſuppoſe, that the Men, when they are prevailed on to liſt, will be told, that they are to fight againſt their Country. Our warlike Preparations will always, in ſuch a Caſe, be ſaid to be intended againſt ſome neighbouring Nation that has inſulted and injured us, though our Miniſters be ſecretly reſolved to ſubmit to every Indignity that can be put upon the Nation by neighbouring Powers, rather than be interrupted, by a foreign War, in the Hoſtilities they are carrying on againſt the Conſtitution and Liberties of their Country. By ſuch a Pretence, my Lords, many Gentlemen may be induced to accept of Commiſſions, many private Men may be induced to liſt as Soldiers, with the honeſt and brave View of ſerving their Country againſt its foreign Enemies; but after they

they have once entered into the Service, they may, by our Mutiny Bill, thus interpreted, be compelled to ſerve againſt their Country, by aſſiſting its domeſtic and moſt dangerous Enemies; for they cannot then leave the Service, when they have a Mind, nor can they ſafely refuſe to obey any Order they receive from their commanding Officer; becauſe the Court Martial is to determine, whether the Order be lawful or not; and a Court Martial, choſen by a Miniſter, will probably determine every Command to be lawful, that proceeds from his Authority, ſecret or revealed.

'Having now ſhewn, my Lords, that it is dangerous, unneceſſary, and inconſiſtent with the Bill already paſſed into a Law, to comply with this Meſſage, I need not, I think, expatiate upon the Conſequences of our not complying with the latter part of it; for let thoſe Conſequences be as dangerous as they will, I hope I have made it appear, that it ought not to be complied with. But the Conſequences of our not complying with it, are ſo far from being dangerous, that, I think, it will be attended with great Advantages. *Spain*, I am convinced, has no Hopes from a War, if on our Side it be wiſely and vigorouſly proſecuted. Their only Hopes, I believe, are founded upon the Continuance of our preſent Adminiſtration. They have by Experience found, that our preſent Miniſters may be amuſed, and they hope to amuſe them with Negotiations for ſome Years longer; or if they cannot amuſe them with peaceable Negotiations, they hope, that our warlike Meaſures will be carried on in the ſame languid and ill-judged Manner, our peaceful Meaſures have been; in which Caſe they may, like the Terrier with the Fox, by mere teazing, at laſt force us to accept of unequal and diſhonourable Terms. We can no Way put an End to theſe Hopes ſo effectually, as by ſhewing, that our Parliament is not under the abſolute Direction of our Adminiſtration. If the *Spaniards* ſee, as they muſt ſee by our refuſing to comply with this Meſſage, that the Parliament has ſeriouſly taken the State of the Nation into Conſideration, and that we have reſolved to be what we really are, his Majeſty's chief and ſupreme Council, their flattering Hopes will all evaniſh, and then they will of courſe comply with our juſt Demands. The 95,000 *l.* will be paid upon the Day appointed, and all other Diſputes will ſoon be ſettled to the Honour and Advantage of this Nation; ſo that if the 95,000 *l.* ſhould not be paid, or if a War ſhould enſue, I ſhall impute it to our complying with the Meſſage now before us.

'I am ſurprized, my Lords, to hear it ſaid, that our refuſing to comply with this Meſſage, would give the Court of *Spain*, or any other Court in *Europe*, Cauſe to imagine, that

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there would be a Breach between his Majeſty and his Parliament. Can we ſuppoſe that Court, or any Court, ſo ignorant of our Conſtitution, as not to diſtinguiſh between his Majeſty and his Miniſters? Can we ſuppoſe them ſo ignorant of his Majeſty's Regard for our Conſtitution, as to imagine, that he would eſpouſe the Cauſe of his Miniſters againſt his Parliament? God forbid! that any of his illuſtrious Family ever ſhould, I am ſure he never will; therefore, all the Court of *Spain* could expect from ſuch a Parliamentary Contumacy as I am now pleading for, is, that it would produce a Change of Miniſters; and from ſuch a Change, I am convinced, they can expect no Advantage. If they ſaw but the leaſt Reaſon to ſuſpect it, I am perſuaded, they would be glad to comply, not only with what they have promiſed, but with every Thing we could in Juſtice demand. If an honourable Peace, therefore, be a deſirable Thing, as it ſurely is, I muſt think our refuſing to comply with this Meſſage, the moſt ready way to obtain it; and for this Reaſon, among many others, I ſhall give my Negative to the Queſtion.'

In the Iſſue of this Debate the Court Lords carried their Point; and the following Addreſs being agreed upon the ſame Day, was afterwards preſented to his Majeſty.

Moſt gracious Sovereign,

'WE your Majeſty's moſt dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament aſſembled, beg leave to expreſs the grateful Senſe we have of your Majeſty's Royal Care and Attention for the Peace and Welfare of theſe Kingdoms, and for preſerving the public Tranquillity, and the Balance of Power in *Europe*.

'At the ſame Time, permit us to return your Majeſty our humble Thanks, for having concluded a * Treaty of defenſive Alliance with the King of *Denmark*, and for having ordered the ſame to be laid before us; and to aſſure your Majeſty of our Concurrence, and Support, in making good the Engagements which you have thereby entered into.

'We alſo beſeech your Majeſty, to accept the ſtrongeſt Aſſurances, that we will zealouſly and cheerfully ſupport your Majeſty, in making ſuch further Augmentation of your Forces,

* The Houſe of Commons in compliance with the Meſſage voted 70583 *l.* for the Subſidy to *Denmark*, and 500,000 for augmenting the Forces upon any Exigency.

Forces, either by Sea or Land, as may become abſolutely neceſſary, by Reaſon of any Emergency, ariſing from the preſent Poſture of Affairs in *Europe*, which may nearly concern the Honour, Intereſt, and Safety of theſe Kingdoms; and in concerting ſuch Meaſures, as the Exigency of Affairs may require.'

His MAJESTY's Anſwer.

'My Lords, I take this Addreſs as a real Mark of your Zeal and Affection for my Perſon and Government. You may depend upon it, that the Confidence which you repoſe in me, ſhall be made uſe of, with the ſtricteſt Regard to the true Intereſt of my People.'

Debate on a Clauſe for raiſing 60,000 *l.* to be paid the *Spaniards*, in Virtue of the Convention.

The Reader may remember, that by the Convention *Great Britain* ſtood engaged to pay to the Crown of *Spain*, the Sum of 60,000 *l.* in Conſideration of the Ships deſtroyed and taken in the *Mediterranean Sea*, in the Time K. *George* I. which Sum was to be applied towards the Relief of the *Britiſh* Merchants, who had ſuffered by the *Spaniſh* Depredations. Accordingly, a Clauſe was inſerted in a Bill, by which the ſaid Sum was provided for, to be paid by the Parliament. After this Bill had paſſed the Houſe of Commons, and had received a firſt Reading in the Houſe of Lords, towards the latter End of the Seſſion, the Lord *Bathurſt* ſpoke to the following Purpoſe.

Lord *Bathurſt*.

'My Lords, The Time is now expired, that was ſtipulated by the Convention, for the Payment of the 95,000 Pounds; and we have now before us a Bill, by which his Majeſty is enabled to pay 60,000 Pounds, towards the Diſcharge of a Debt owing to the Crown of *Spain*. As we are ſo very punctual in fulfilling our Engagements to that Crown, I think, it would be highly worthy of this Houſe, to addreſs his Majeſty, to know if that Crown has fulfilled any Part of her Engagements to us. Therefore, I hope, your Lordſhips will pardon me, if I take the Liberty to move,

Moves for an Addreſs, to know whether *Spain* has paid the Money ſtipulated by the Convention.

'— That an humble Addreſs be preſented to his Majeſty, that he would be graciouſly pleaſed to acquaint this Houſe, whether or not the Sum of 95,000 Pounds, ſtipulated by the late Convention, on the Part of *Spain*, to be paid in Conſideration of the Damages ſuſtained by his Majeſty's trading Subjects in the *Weſt-Indies*, is yet paid; and, if it is not paid, that his Majeſty would be graciouſly pleaſed to inform the Houſe, what Reaſons have been given, on the Part of that Crown, for the Non-payment.'

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Duke of *Newcaſtle.*

Duke of *Newcaſtle.*

' My Lords, It was natural to foreſee, that a Motion of this kind would be made. Therefore, I have leave from his Majeſty to acquaint the Houſe, that the ſaid Sum is not paid, and that no Reaſons have as yet been given on the Part of *Spain*, for the Non-payment.'

Earl of *Aylsford.*

Earl of *Aylsford.*

' My Lords, It is very ſurprizing, that any Lord ſhould take upon him to bar the Acceſs of the Houſe to his Majeſty, and, I think, that this Anſwer is by no Means Parliamentary. The noble Lord ſaid, he has leave to acquaint the Houſe, ſo and ſo. — How could his Grace know what Motion was to be made in this Houſe? And if he did know, is it not a very great Proof of the noble Duke's Courage, to take upon him to ſtep betwixt his Majeſty and this great Council, and return a verbal Anſwer to an Addreſs, before it has been preſented, even before it has been agreed to? My Lords, how will this be looked on without Doors? May it not be very juſtly thought, that this Anſwer is calculated, to exclude from his Majeſty's Preſence, all thoſe who had the Honour to vote againſt the Convention?'

The Duke of *Newcaſtle.*

The Duke of *Newcaſtle.*

' My Lords, I thought I was doing the Houſe a Piece of Service, in ſaving Time thus late in the Seſſion. The Anſwer I have given, is the very ſame that the Houſe will receive, if the Addreſs ſhould be preſented.

' But, my Lords, I have another Reaſon for oppoſing this Motion, and that is, Becauſe it is by no Means Parliamentary. The Motion is for an Addreſs, That his Majeſty would be graciouſly pleaſed to acquaint the Houſe; whereas, all Addreſſes of that kind, are, That his Majeſty would order the Secretary of State, or the proper Officer, to lay before the Houſe the Papers that may be neceſſary for our Information in ſuch Caſes. Now, my Lords, this is the very Thing his Majeſty has done. There are no Papers, indeed, to be laid before the Houſe on this Occaſion, but he has ordered me, who have the Honour to be a Secretary of State, to return the Houſe the ſame Anſwer that would have been returned, if the Addreſs had been preſented.

' As

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' As to my Intention of precluding the noble Lords from having Acceſs to his Majeſty, I do aver, my Lords, that I am ſo far from having any ſuch Intention, that nothing would give me greater Pleaſure, than to ſee the noble Lords, who voted againſt the Convention, more aſſiduous than they are, in paying their Duty perſonally to his Majeſty. Therefore, my Lords, I hope this Motion will be thought improper; and the rather, becauſe the Term ſtipulated for the Payment, has been but a very few Days elapſed, and it would be raſh to come to any Reſolutions on this Head, (which we muſt do, if the Addreſs ſhould be preſented) without having a little farther Patience.

The Duke of *Argyle*.

Duke of *Argyle*.

My Lords, It is now high Time for us to lay aſide uſing the Medium of Miniſters, in preſenting Addreſſes, or receiving Anſwers from the Crown. We ought now, my Lords, to inform his Majeſty our ſelves, of Things that the Miniſtry appear to have neglected. It was foretold again and again in this Houſe, that this Money never would be paid, and the whole Merit of the Convention was to ſtand or fall by the Behaviour of the Court of *Spain* in that reſpect. Now it appears, that the Money is not paid. What is to be done? Shall we again truſt to Miniſters, who, it is evident, have miſ-informed his Majeſty in every Step in this Affair? No. Let us apply to the Crown our ſelves; his Majeſty's known tender Regard to the Rights of his Subjects, leaves us no room to doubt of obtaining Redreſs. I muſt take Notice of ſomewhat ſaid by the noble Lord who ſpoke laſt: He thought it was always cuſtomary for the Crown to return its Anſwers to this Houſe by the Miniſters. It may be the Cuſtom, my Lords, but this Houſe has ſometimes been ſo diſſatisfied with ſuch a Proceeding, that we have addreſſed the Crown to know by whoſe Advice ſuch an Anſwer was given. If the Addreſs now moved for, could be anſwer'd by any Papers to be laid before us, we had no Occaſion to addreſs, we needed but have appointed a Committee, with the Power that Committees commonly have, of ſending for Papers, Records, or Perſons, as they think fit. But, my Lords, it is not ſo much for Information, that we ought to agree to this Addreſs; we ought to agree to it, in order to open a Communication betwixt his Majeſty and his great Council, without Intervention of a Miniſter.

The Word Miniſter, my Lords, has been very much miſunderſtood of late. It has a *Britiſh* and a *French* Signification. In the *Britiſh* Senſe, my Lords, it ſignifies a Servant of

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of the Parliament, a Servant of the People, as well as of the Crown; and this House has formerly understood Ministers to be under their immediate Direction. We have an Instance of it in the Reign of King *Charles* II. when upon a Complaint of a Breach of Privilege to this House, the offending Party fled to *Holland*: What did this House do, my Lords? It ordered, by it own Authority, the Secretary of State to write to *Holland*, and reclaim the Offender.

'The *French* Sense of the Word Minister, my Lords, *Maitre de Palais*, is one who acts in Place of the King, one who is accountable to none but the King, let him be guilty of never so many Miscarriages or Mismanagements. I am sorry to see it, but we seem of late to have adopted this last Sense of the Word. Ministers of *Great Britain* seem to be as absolute as they are in *France*: But, my Lords, I hope your Lordships will assert the Dignity of this House, and agree to this Address.'

The Motion over-ruled.

The Question being then put, it was carried against addressing by 51 to 38.

Debate on the State of the Nation.

The Division being over, the Lord *Carteret* said, that as the House had found itself to be informed in a Parliamentary way, that as the 95,000 Pounds were not paid by *Spain*, they had now a Parliamentary Foundation to go upon; and therefore he moved, that a Day might be appointed for taking the State of the Nation into Consideration; which was agreed to.

Accordingly on the Day appointed, the Lord *Carteret* opened the Debate as follows:

The Lord *Carteret*.

'My Lords, We are now met to consider of the State of the Nation, a State more fit for Meditation than Discourse; a State whereof none of our Forefathers has seen the Parallel, and which requires all your Lordships Attention to prevent our Posterity from feeling its Consequences.

As your Lordships have already found, that the Obligations which *Spain* had entered into by the late Convention, are on her Part unfulfilled, the House, I hope, will pardon me if I now treat that Measure as no longer existing, and lay before your Lordships a Detail of what Prudence, Honour, and a just Regard for the Interest of this Nation, ought to have dictated to those, who negotiated that Convention, as the proper Measures to be pursued, instead of that ruinous Treaty.

Give me Leave, therefore, my Lords, to say, that after the Refusal, on the Part of *Spain*, to give up the Point of

No

No Search, our Miniſtry ſhewed a Diſreſpect to the Sentiments of this Houſe, in any longer continuing their Negotiations with that Court. His Majeſty, the Nation, and all the World muſt have acquitted them, if on ſuch a Refuſal they had no longer looked on the Differences with *Spain*, as the Cauſe of the Miniſtry, but of the Parliament; they ought then to have appealed to the Parliament for Juſtice, and we, my Lords, muſt have ſupported them, becauſe the Diſcontinuance of their Negotiations was but the neceſſary Conſequence of our own Advice to his Majeſty. The Breach of the Convention on the Part of *Spain*, my Lords, regains us that Opportunity, which we are now to improve, in the ſame Manner as if the Convention had never been made. Ann. 12 Geo. II. 1739.

'We muſt therefore, my Lords, now have recourſe to Arms; and, I believe, I need not ſuggeſt to your Lordſhips, that the Sea is the only Element where our Quarrel can be decided, as it is the Element on which it began. This, my Lords, was eaſy to have been foreſeen by our Miniſtry, even before the Convention was concluded. But now, my Lords, as *Spain* has wounded the Honour of the Crown, and People of *Great Britain*, by adding a Breach of that Convention to other Inſults and Injuries, we ought to proceed after a more vigorous Manner, than might have been neceſſary before the Convention was concluded. We ought not now ſo much as to mention Repriſals by our Merchants. Repriſals by Merchants, my Lords, to a little State are pernicious, and to a great one diſhonourable. As the Inſult has been offered to his Majeſty, his Majeſty's Ships ought to make Repriſals; therefore, I was ſurpriſed when I heard it mentioned without Doors, on this Occaſion, that the Miniſtry had offered Repriſals to Merchantmen and private Perſons. If the Royal Navy of *Great Britain* does not act now, we may deſpair of ever ſeeing it act; for, my Lords, if all the Circumſtances of the laſt Inſult, which *Spain* has offered to the Nation, are conſidered, we perhaps ſhall not find the like recorded in Hiſtory. She has now her Ships ready to ſail for the *Weſt Indies*; ſhe has other Ships, the Property of which belongs all to herſelf, on their Voyage homewards; yet ſhe holds us ſo much in Contempt, that tho' ſhe could get the one ſent out, and the other brought home with Safety, by paying this paltry Sum of 95,000 *l.* ſhe refuſes to do it. Is not this, my Lords, telling us that ſhe will treat no longer; that we dare not reſent whatever Affront ſhe gives us; and that ſhe will riſk all the Effects, all the Trade ſhe has at Sea, rather than fulfil one Article of her Engagements?

'As this, my Lords, is evidently the State of this Nation, with regard to *Spain*, I ſhall beg Leave to make a Motion to your

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your Lordſhips, which I intend as an Introduction to ſome others that may follow, if your Lordſhips ſhall think fit to agree to what I am now to propoſe.

'I therefore, humbly move your Lordſhips, to reſolve, that the Nonpayment of the 95,000 *l.* agreed by Treaty to be due from the Crown of *Spain*, as a Ballance to the Crown and Subjects of *Great Britain*, and expreſsly ſtipulated to be paid in Money in *London*, within 120 Days after the Exchange of the Ratification, which Time is now expired, is a manifeſt Infraction, on the Part of *Spain*, of the Convention lately concluded between the two Crowns, an high Indignity to his Majeſty, and an Injuſtice to the Nation.

Moves that *Spain*'s not paying the 95,000 *l.* is a Breach of the Convention.

Lord *Halliſax*.

Lord *Halliſax*.

'My Lords, could I be perſuaded that the ſame Conduct, which has ſunk the Nation to that degree of Contempt, which the noble Lord has juſt mentioned, could regain her Honour, and aſſert her Dignity, I ſhould not have troubled your Lordſhips on this Occaſion. But, my Lords, convinced as I am, that a Continuance of the ſame Conduct will, if poſſible, ſink us ſtill lower in the Eyes of every Nation in *Europe*, I cannot help taking this Opportunity of expreſſing my Concurrence with the Motion made by the noble Lord. I do it, my Lords, from no Diſreſpect to the Perſons of thoſe who have the Honour to be employed by his Majeſty; far leſs do I mean to reflect on any noble Lord here. I have the greateſt perſonal Regard for many of the noble Lords whom I ſee, and who I know have had the Honour to adviſe his Majeſty; but, my Lords, as I am perſuaded they acted to the beſt of their Knowledge, I hope I ſhall be pardoned if I act to the beſt of mine, and declare to your Lordſhips, that my ſincere Opinion is, that it is now high time for this Houſe to ſpeak the Senſe of the Nation, and endeavour to regain by our Arms what we have loſt by our Councils.

The Duke of *Newcaſtle*.

Duke of *Newcaſtle*.

My Lords, the noble Lord who ſpoke laſt, has delivered himſelf with ſo much Decency, that I am ſorry I am obliged to differ from his Lordſhip as to the Fitneſs of the preſent Motion. The Fact, my Lords, contained in the Motion, is what I ſhall be far from denying; I readily own, that *Spain* has behaved in a moſt ſcandalous, unaccountable Manner to this Kingdom, and that ſhe merits the ſevereſt Chaſtiſement of our Arms. But, my Lords, give me leave to obſerve,

ſerve, that it is not *Spain* alone whom we are to conſider in the preſent Queſtion; had we to do with her only we could ſoon bring her to Reaſon. But, my Lords, who can anſwer for the Part that a neighbouring Power, greater than *Spain*, may take in this Quarrel? I don't mean that we are tamely to put up with Affronts and Loſſes for fear of this neighbouring Power; I only think it is highly worthy your Lordſhips Deliberation, to conſider how far it is proper to put both that Power and *Spain* upon their Guard, by our coming to a Reſolution that muſt inevitably produce an Addreſs to his Majeſty for an immediate Declaration of War. What makes this Conſideration, my Lords, the more neceſſary at preſent, is, that the Kingdom is at this Juncture unprovided to make Head againſt theſe two Powers. Let us once, my Lords, put our ſelves in a Condition to ſtrike a Blow, and then we may ſtrike it ſurely and ſafely. But by coming to this Reſolution we give our Enemies Warning, we put them on their Guard, which may be the Means of our miſcarrying.

'My Lords, I look upon the Convention in a different Light from the noble Lord who made the Motion, and tho' I did not think that it was a good Meaſure, as I ſincerely do, I think myſelf obliged to treat it with ſome Decency, becauſe it was approved by this Houſe. However, my Lords, as I have no Objection to the Facts contained in this Motion, but only to the Prudence of our agreeing to it at this Juncture, I humbly move that the previous Queſtion may be put.'

The Lord *Strafford* ſpoke next, and was of Opinion, That the Queſtion ſhould be put upon the Motion; but the Lord Chancellor, ſaying, That any Peer might move for a previous Queſtion, the Houſe ſeemed to acquieſce in his Opinion, and the Lord *Cheſterfield* ſpoke next in Subſtance as follows.

The Earl of *Strafford*.

The Earl of *Cheſterfield*.

The Earl of *Chefterfield.*

'My Lords, I ſhall deliver myſelf to your Lordſhips in the ſame Manner as if the Queſtion itſelf were put, leſt I ſhould not have another Opportunity of ſpeaking on this Subject

'The State of this Nation, my Lords, is a very complicated Subject, and requires that we ſhould look farther back than the preſent Juncture. Our melancholy Situation is owing to a Series of Miſconduct for many Years paſt. This Kingdom has paid immenſe Sums towards the Support of the Government, without receiving the leaſt Advantage in return. Are our Manufactures improved? Is our Trade extended? Have the Arts of Peace been cultivated among us,

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during the long expenſive Peace we have enjoyed? No! they are all viſibly gone to decay. Have we ſuffered theſe to go to decay, in order to reduce a formidable Enemy, or to quell domeſtic Inſurrections? No! our Enemies are more inſolent and powerful than ever, and domeſtic Inſurrections we have had none. Even at this Inſtant, my Lords, *Spain* continues her Depredations with more Violence than ever, and yet the People of theſe Nations are willing to contribute their laſt Shilling, to enable the Government to ſupport its own Honour. This laſt Inſult, my Lords, we have received from *Spain*, is of a Piece with the reſt of her Conduct, for theſe 20 Years paſt. What could we expect after ſubmitting to the Terms of the Convention, after ſubmitting to reduce the Demands of our Merchants very near one half, after ſubmitting to accept of their infamous Proteſt, and after ſubmitting to deduct 45,000*l.* for the prompt Payment of what will never be paid?

'The noble Duke has told us, that we don't know what Part a neighbouring Power may take, if we ſhould proceed to violent Meaſures. Let her take what Part ſhe will, my Lords, we can be in no worſe Situation than we are, But what Part can ſhe take? She cannot look us in the Face at Sea; ſhe cannot prevent our ſeizing the *Spaniſh* Plate-Fleet; ſhe cannot reclaim one Farthing of the Effects, if we ſhould ſeize them, becauſe they are all entered in *Spaniſh* Names; and therefore it will become our lawful Prize. But, ſays the noble Duke, We are not yet ready. What not ready, my Lords, at this time of Day? Whoſe Fault is that? Has the Government been refuſed any Thing it has aſked to ſtrengthen his Majeſty's Hands? or has any thing happened that was not both foreſeen and foretold? I remember, my Lords, it was foretold that this Money never would be paid; and what was the Anſwer? It was inſiſted on, that we were ſo formidable that *Spain* never would dare to refuſe to pay it. The whole Merit of the Convention was put on that ſingle Point. Can you doubt, ſaid they, that *Spain* has diſavowed her Depredations, when here ſhe pays Damages for them? *Habetis confitentem reum:* Sure ſhe'll never pretend to inſult us for the future. But, my Lords, we ſee ſhe has not only not paid it, but holds us ſo much in Contempt, that ſhe wont ſo much as give a Reaſon for her Refuſal. By this, my Lords, ſhe has given the Lye to every Argument advanced in favour of the Convention, and I hope we ſhall not act ſo far below the Dignity of this Houſe, as to refuſe to put a Queſtion upon a Fact that is on all Hands acknowledged to be true. This, my Lords, would give every foreign Power, and every Man in the Kingdom without Doors,

a more contemptible Opinion of us, than they have ever yet had of the Miniſtry. Let us therefore, my Lords, as a noble Lord ſaid, with a Spirit worthy of the Blood and Name he bears, for once ſpeak the Senſe of the Nation, and endeavour to regain by our Arms, what we have loſt by our Councils. Let us lay before his Majeſty the true State of the Nation, that he may no longer be impoſed upon by thoſe who have ſo notoriouſly betrayed her Intereſt, and diſregarded his Honour.' Ann. 12 Geo. II. 1739.

Earl of *Cholmondeley*.

'My Lords, if I thought that our putting the main Queſtion could be of any Service, either to his Majeſty, or the Kingdom, no Lord ſhould more readily agree to it than myſelf. But as I am perſuaded that it might be a Detriment to both, and could, in no Event, be of any Advantage to either, I muſt beg leave to be againſt it. The noble Lord, who ſpoke firſt, ſaid very rightly, that *Spain*, by not complying with the Payment of the 95,000 Pounds, had forfeited a great many Advantages of much ſuperior Conſideration, which ſhe might have had if ſhe had paid it. My Lords, this is one Reaſon, to me, for thinking that *Spain* is not ſo unprovided of Alliances and Forces as we flatter ourſelves, otherwiſe ſhe would never have done ſo impolitic, ſo unjuſt a Thing. And, my Lords, give me leave to ſay, that if we ſhould attack the *Spaniſh* Plate-Fleet, *Spain* would be the leaſt Sufferer, the Loſs muſt come upon us and our Allies, ſo that all we ſhould gain, muſt be the Ill-will of our Neighbours, and the Ruin of our Merchants. A noble Lord who ſpoke in the Debate, ſaid, that we were to conſider all the Effects in that Fleet, if ſeized, as lawful Prize, becauſe entered in *Spaniſh* Names. They are ſo, my Lords; but we know it has been always underſtood, that ſo much of theſe Effects as belonged to other Nations, have been as much their own Property, as if they had been actually entered in their own Names; and that, before now, they have been both reclaimed and reſtored as ſuch. Therefore, my Lords, as I ſee no Good that can attend our putting the main Queſtion, I hope your Lordſhips will agree to our putting the previous Queſtion.' Earl of *Cholmondeley*.

Lord *Bathurſt*.

'My Lords, I own that I am for going upon the main Queſtion, becauſe, if we longer defer entering into vigorous Meaſures, we may loſe an Opportunity we never can regain. Lord *Bathurſt*.

Ann. 12 Geo. II. 1739. We have trifled too long with *Spain*, and if we ſhould trifle longer, the generous Reſentment of this Nation may wear off; People will begin to think that they are for ever to ſuffer, and, inſtead of blaming *Spain*, they may blame us. For my own part, my Lords, I wiſh to ſee ſomething done towards retrieving the Honour of this Kingdom, while I myſelf, if there were Occaſion, might be able to bear a Part in the Service of my Country, before I am render'd unable to do any more than to ſit down in a great Chair and bewail her Calamities. This, my Lords, may be the Caſe of every Lord in this Houſe, who ſhall have the Misfortune to live, and to ſee the Event of our Differences with *Spain*, if Things are managed as they have been for ſome Years paſt.

'Many Circumſtances, my Lords, concur to render this a fit Opportunity of making War upon that inſulting Power. We have now Generals, we have Admirals alive, who have ſeen the Face of Danger; who have formerly helped to reduce the Power of that Nation which now dictates the Councils of *Spain*. The *Spaniards* themſelves, my Lords, are in no Condition to reſiſt us: In *Old Spain* a barren Year has reduced the Inhabitants to the utmoſt Miſery; the Court itſelf is obliged to retrench its Expences in Penſions and Salaries. I wiſh we were ſo wiſe as to follow their Example in this. In *America* their Subjects would be glad of a Change in Government, ſo intolerable is the Oppreſſion of their Governors, who are generally the hungry, needy Countrymen of her Catholic Majeſty, who ſends them over to fleece the People. For ſome Time, my Lords, after the Conqueſt of *New Spain*, every *Spaniard* was qualified to be a Governor there; but afterwards the Court grew jealous, and would ſuffer only Natives of *Old Spain* to be appointed Governors; at laſt, only Natives of the antient Kingdom were to have that important Truſt. Since her Catholic Majeſty has had ſo much Sway in the Management of Affairs of State, the Governors in *America* are generally *Italians*. In ſhort, my Lords, the whole *Spaniſh* Monarchy is now managed by a Faction. Shall we be afraid of a People governed by a Faction? Or, my Lords, if we were governed by a Faction, would any People in the World be afraid of us? Therefore, my Lords, I hope your Lordſhips will put the main Queſtion, and convince *Spain*, and all *Europe*, how dangerous it is for any Nation to inſult the Honour of this Kingdom.'

Lord *Hervey*. The Lord *Hervey* obſerved next, 'That the Complaints made againſt the Convention were apparently groundleſs. For if it had been a bad Meaſure for the Kingdom, the *Spaniards* would certainly have fulfilled it; but as it was for the Advantage

'Advantage of the Kingdom, they had repented, and refuſed to fulfil it.' Ann. 12 Geo. II. 1739.

Lord Viſcount *Lonſdale.*

'My Lords, I ſhould be glad to ſuggeſt any thing that might reconcile the different Opinions of the noble Lords who have ſpoken in this Debate. I own, my Lords, I am for putting the main Queſtion, but not as it ſtands. I ſee no Reaſon for our declaring the Non-payment of 95,000 *l.* to be an Indignity to the King, and an Injuſtice to the Kingdom. I think the Motion would do better if it wanted theſe Words, and my Reaſons are theſe: By the *American* Treaty betwixt us and *Spain*, either Nation is at Liberty to uſe Letters of Repriſals, or other Methods of obtaining Satisfaction, if Juſtice is either abſolutely deny'd, or unreaſonably delay'd by the other. Now, my Lords, as the Convention is unfulfilled on the Part of *Spain*, and as one End of the Convention was to obtain Juſtice to the Merchants of this Kingdom, it neceſſarily follows, that that Juſtice is abſolutely deny'd. Therefore we are to look upon ourſelves in the ſame Situation we were in before the Convention was concluded, and ought to proceed in the ſame Manner as if it never had exiſted. If it never had exiſted, my Lords, we muſt have had Recourſe to that Article; we ought to do ſo now, and if we do, we act ſtrictly up to the Senſe of Treaties; we deprive *Spain* of all Pretences for calling in her Allies to her Aid; and we expoſe her Injuſtice while we are chaſtiſing her Inſolence. If ſhe ſhould go to War upon this, then ſhe is the Aggreſſor, and all *Europe* will acquit us of any ambitious Views upon her Trade, or Intention to diſturb the common Tranquillity. I will make no Motion upon this, my Lords, but I humbly apprehend, that the Queſtion would ſtand better if it wanted theſe laſt Words.' Lord Viſcount *Lonſdale.*

The Lord Chancellor.

'My Lords, when I hear a Reſolution of this kind mov'd for in this Houſe, I not only conſider the Matter of the Reſolution propoſed, but I take, as far as I am able, under my View, all that is conſequent upon, or connected with it. This Reſolution contains, my Lords, indeed, an undiſputed Fact; but when I conſider that it muſt be attended with another Queſtion, as the noble Lord who made the Motion inſinuated, I conſider the Conſequence of that Queſtion. This, my Lords, muſt produce an Addreſs to his Majeſty for an immediate Declaration of War. An immediate Declaration The Lord Chancellor.

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tion of War, my Lords, at this Time, I apprehend would be very impolitic in us. We might put *Spain* upon her Guard by ſuch a Meaſure, and deprive ourſelves of many Advantages we might have by falling upon her without giving her any ſuch Notice. Beſides, my Lords, the Effects of all our Merchants in the *Spaniſh* Dominions muſt fall into the Hands of that Court, if we declare War at this Juncture. But, my Lords, I am by no means for putting the War longer off. I agree with the noble Lord who made the Motion, that the State of the Nation is more proper for Meditation than Diſcourſe: I will go farther, my Lords, and ſay, that it is more proper for Meditation and Action too, than Diſcourſe. I am for entering upon Action immediately, and that we may do it more ſucceſsfully, I think we ought to enter into no Meaſures that may put our Enemies upon their Guard. I hope therefore your Lordſhips will agree to the putting the previous Queſtion.'

The Duke of *Argyle*.

Duke of *Argyle*.

'My Lords, I believe it was never before known that every Lord of this Houſe owned a Matter of Fact to be true in a Debate, and yet refuſed to own it upon the Queſtion. This, my Lords, looks very myſterious, and I don't love Myſteries. When People follow Myſteries, they are apt to fall into Bigotry. I am, my Lords, for our treading in the plain Road of Truth, nor can I ſee the leaſt Inconveniency that can enſue, if we ſhould put the main Queſtion. Shall it be ſaid, my Lords, that this Houſe was afraid to ſpeak the Truth? What Power on Earth ſhould we be afraid of, while we have a juſt Cauſe, a gracious Sovereign, and a brave People to ſupport us?

The noble Lord who ſpoke laſt ſuppoſed, that if we did not declare War we might attack *Spain* unprovided. My Lords, if I were to give a Man a Blow with a Cudgel behind his Back, it is to be ſuppoſed that this Man, if he reſented the Blow immediately, could take me unprovided, unleſs he look'd upon me, my Lords, as a downright Fool? Is he not to expect that, after giving him ſuch an Affront, I will be as ready with my Sword as he can be with his? The Caſe, my Lords, is exactly the ſame betwixt us and *Spain*. She has inſulted us to the laſt Degree, ſhe has wronged us, ſhe has broken her Faith with us, and as ſhe has done that, are we to expect to ſteal a Satisfaction of her by her being unprepared? I wiſh with all my Heart, my Lords, ſhe may be unprepared; but whether ſhe is or not, our agreeing to this Reſolution can be of no Service to her, and our

our not agreeing to it may be a very great Diſcouragement to every Man who wiſhes well to his Majeſty's Perſon and Government. Therefore I hope the main Queſtion will be put.'

The Earl of *Scarborough*.

The Earl of *Scarborough*.

'My Lords, the Part I have all along acted in this Affair leaves, I hope, no room to doubt of my Impartiality. Your Lordſhips may remember that I was for the Addreſs in the beginning of the Seſſion, becauſe I thought it a Piece of perſonal Reſpect due to his Majeſty. When the Convention came to be conſidered, I oppoſed it, as I ſhall do every Thing that I think contrary to the Honour and Intereſt of my Sovereign and my Country. My Lords, as this Conſideration has ever prevailed with me, preferably to any miniſterial Attachment, ſo I have never yet been ſway'd by the Motives of any Party or Oppoſition to give my Voice againſt the Meaſures of the Miniſtry, when I thought they tended to the Good of my Country. Therefore, my Lords, I flatter myſelf that your Lordſhips will look upon what I am now to ſay as the Dictates of an unprejudiced Heart, uninfluenced by Hopes, and unawed by Fears. I have, my Lords, given all the Attention I was capable of giving to the preſent Debate; I came into the Houſe undetermined how to vote in this Queſtion; but reſolved to vote on that Side which ſhould appear to me, on the Debate, to be moſt reaſonable: And, my Lords, with ſo equal, ſo unprejudiced a Mind have I heard this Debate, that (I don't know if I ought to tell it) ſince I came into this Houſe, I have changed my Sentiments three or four times. Before the noble Lord who ſpoke laſt roſe up, I was quite at a Loſs on which Side to give my Voice; but what his Lordſhip ſaid has at laſt determined me.

'The Affair we are now upon, my Lords, may be reſolved into this Alternative, Whether it is moſt prudent for us to agree to a Reſolution which muſt produce an Addreſs for a War, or depend on the Miniſtry's taking the proper Meaſures? My Lords, if we agree to the former Propoſition, we may hurry the Miniſtry too much; and if the Nation does not receive that Satisfaction ſhe expects, we may give them too good a Pretext for excuſing themſelves, by ſaying, the Affair was taken out of their Hands, — the Meaſures they had laid down were rendered ineffectual by the Interpoſition of other Councils. My Lords, I am for taking from them all Pretexts of this Kind, by devolving all upon them. The noble Lord who ſpoke laſt, and who not

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only knows as much, but has as good a Foreſight, as any Lord in this Houſe, has declared enough to ſatisfy me. His Lordſhip ſaid that the preſent was a Time more fit for Meditation and Action too than for Diſcourſe. What ſtronger Aſſurances can your Lordſhips deſire that the Miniſtry will act a Part becoming *Britons*, that they will amply revenge the Wrongs we have already ſuffered, and provide for the Honour and Safety of the *Kingdom?* My Lords, let me become Surety for their Proceedings on this Occaſion. I know many amongſt them to be Men of ſuch Worth, that they would diſdain to amuſe the Nation, or to impoſe upon this Houſe by Sham-Preparations or Mock-Aſſurances. My Lords, if they ſhould act in ſo ſcandalous a Manner, I ſhould be the firſt Man in this Houſe to move for bringing them to Juſtice; nay, my Lords, I here ſolemnly promiſe to your Lordſhips, that if, before your next Meeting, every End is not anſwered which we could gain by agreeing to the Motion for this Reſolution, I myſelf will, on the firſt Day of the next Seſſion, move the Houſe to call them to an Account.

'But, my Lords, my Hopes that we ſhall act a becoming Part on this Occaſion are not grounded ſo much on the Confidence I have in the Miniſtry, as on my Knowledge of his Majeſty's tender Regard to the Rights and Properties of his Subjects. No Conſideration, my Lords, after what we have ſuffered from *Spain*, can induce his Majeſty to act any other than a vigorous and an honourable Part; and, my Lords, I think it would be doing an Injury to his Majeſty's known Zeal for the Good of the Nation, if we ſhould precipitate Meaſures by interpoſing in what he has, to my knowledge, already reſolved upon. Therefore let me deſire your Lordſhips to drop the main Queſtion, and to put the previous one.

The previous Queſtion being put, it was carried againſt putting the main Queſtion, 63 againſt 44.

June 14, His Majeſty put an End to the Seſſion with a Speech, which ſee in *Chandler*'s Hiſt. *Ann.* 12 *Georg.* II, p. 173, 186.

The MANIEFSTO *of his* CATHOLIC MAJESTY. Vindicating his Conduct in regard to the late Convention; alſo the Reaſons why he has not paid the 95,000 *l.* Sterling.

The KING.

'Our Deſire not not to diſturb the Tranquillity of *Europe*, and to maintain our Subjects in Peace, has, for ſome Time paſt, put us upon doing Violence, in ſome Meaſure,

to

to the Nicety of our Honour, and the Advantages of our Intereſts.

'*England*, diſquieted with domeſtic Diviſions, has urg'd her Complaints with ſuch Obſtinacy, tho' perhaps conſcious how little they are founded on Juſtice, that, if our ſincere Diſpoſition had not found more Weight in the foremen-tioned Conſiderations than in her Inſtances, theſe Diſputes might, long ago, have proceeded to a fatal Rupture, not without Powerful Motives on our Behalf. The Proof of this is plain from the Anſwers given to her Officers, and our condeſcending to their Propoſals, ſo far as to admit the Regulation made at *London* of the reſpective Demands, not regarding the exorbitant raiſing her Prices, nor the lowering of our own, with a View only to obtain Peace on the tolerable Condition of diſſembling this Advantage in favour of that Crown. The reſt of the Negotiation, on our Part, was anſwerable to ſo noble a Sincerity.

'The Miniſtry at *London* reckoned our Claims on the *Aſſiento* Company into the Payment we were to make; and tho' we might have taken Advantage of the Company's Refuſal to pay the ſame, in order to make Alterations in the other Articles agreed upon, the ſame Miniſtry knows, that we ſent Orders to Don *Thomas Geraldino*, our Miniſter Plenipotentiary at that Court, to take up at Intereſt the 95,000 *l.* that what had been promiſed might not reſt unpaid.

'As ſoon as the Convention was ſigned at the *Pardo*, and ratified at *London*, We, prompted by our Good Faith, ordered our Squadrons to be diſarm'd, ſent the ſtipulated Directions to *Florida*, and perform'd all that was incumbent on us. But *England* has acted a very contrary Part: for having doubtleſs repented recalling Admiral *Haddock*'s Squadron from the *Mediterranean*, it was ordered to be ſtation'd at *Gibraltar*, as a much fitter Place for accompliſhing the Deſign which, in all Appearance, was even then in Agitation, and has ſince been diſcovered; and at the ſame Time no Orders at all were ſent to *Carolina*. The *Britiſh* King ſupported the Tranſactions of the Company, as an Engagement of his Crown, whereas before the Convention they were regarded only as a Contract made with a private Perſon.

'Theſe Proofs of their not proceeding with Unanimity in their Intentions, obliged us, in the Beginning of *April* laſt, to notify, by our firſt Secretary of State, and of Diſpatches, the Marquis *de Villarias*, to Mr. *Benjamin Keene*, Miniſter Plenipotentiary of the King of *Great Britain* at our Court, how much the Continuance of Admiral *Haddock*'s Squadron at *Gibraltar* would hinder the full Effect of the Convention, notwithſtanding any Securities that might be

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offered; and finding that these Intimations were insufficient to check the threatening Danger, we resolved, that our Plenipotentiaries, in their first formal Conference with those of *England*, should repeat more at large the same Declaration, to the End that the Blame of having rendered ineffectual what had been stipulated, might never be imputed to us. The Effects of so worthy a Conduct have not been such as ought to be expected, but rather conformable to the Conduct observed by *England*, as is already mentioned in Substance: That is to say, Orders have been given to Admiral *Haddock* to cruise with his Squadron between the Capes St. *Vincent* and St. *Mary*, in order to await and surprize the *Assogue* Ships. Reprisals in a Stile not decent, have been published at *London*, and proceeded to Execution in several Parts, as appears by authentic Depositions of those who have suffered by them. Our Patience and Moderation being thus provoked, and since it would now become a Disgrace to our Power and Sovereignty to continue longer in the Inaction hitherto observed, we have determined, that there be likewise Reprisals made in our Dominions, and by our Subjects, upon the Goods and Effects of the King and Subjects of *Great Britain*, observing the Rules directed in the circular Orders which shall be issued for that Purpose. And to the End that this Resolution, and the prevailing Motives thereunto moving us, may be known to all the World, we have thought fit to publish them in manner as above. Given at St. *Ildefonso*, the 20th Day of *August*, 1739.

I the KING.

And lower,

Don Sebastian de la Quadra.

The King of *Spain*'s Reasons for not paying the 95,000 *l.* stipulated in the Convention, signed at the *Pardo*, *Jan.* 14, 1739.

'The Convention is a Contract whereof the Engagements are reciprocal; consequently, when either of the Parties fails in the Execution of them, the other is thereby disengaged; and the first that fails, gives just Reason to the other to refuse to execute his Part. From whence it follows evidently, that the *British* Court having been the first that failed, and having contravened most of the Articles which were expresly stipulated in the said Convention, and those on which the signing thereof was founded, hath given Room to *Spain* not to execute her Part.

'The

'The first Contravention of *Great Britain* regards the very Beginning of the Convention, where it is mentioned, 'That 'the two Kings having nothing more at Heart than to encreaſe 'and ſtrengthen the good Underſtanding that has ſo happily 'ſubſiſted between them, having agreed to labour by their 'Miniſters with the utmoſt Application and Diligence to at-'tain ſo deſireable an End:' In Conſeqence of this reciprocal Diſpoſition, the Court of *Great Britain* ſent Orders to the *Engliſh* Squadron to quit the *Mediterranean*, and *Spain* diſarm'd her Fleet: But being informed, that the Orders from *London* were countermanded, ſhe ſuſpected that the Clamours of the Populace, and of a Party oppoſite to the Miniſtry, who were highly incenſed againſt the Convention, had prevailed with the Court to recede from its Engagement. Nothing can be more deſtructive of, or contrary to a firm Eſtabliſhment of Friendſhip and good Correſpondence, than Diffidence and Diſtruſt; as keeping a Squadron, not only at *Port-Mahon* where it was at firſt, but alſo at *Gibraltar* in the Center of the Coaſts of *Spain*; where it has been conſiderably reinforced, and can be deſigned for no other Purpoſe, but to interrupt and moleſt Trade, and can be looked upon in no other Light than a continual Hoſtility.

'The ſecond Contravention ariſes from the ſecond Article, which ſays, 'That immediately after the Ratification of the 'Convention, Orders ſhall be diſpatched to *Florida* and *Caro-'lina*, that the new Plantations and Fortreſſes of *Carolina* 'and *Georgia*, ſhall remain *in ſtatu quo*, till the Plenipoten-'tiaries ſhall have regulated the Limits.' The King of *Spain* performed his Part of the Engagement fully, but the King of *Great Britain* deferred for four Months executing his Part, with an Intent to give to his Subjects all that Time to encreaſe their Colonies, and build their Fortifications; nor even at this Hour is there any poſitive Proof that any Orders at all have been ſent; it appears by a Letter of the Duke of *Newcaſtle*, that there were none ſent the 27th of *March*.

'What is ſtill more remarkable with regard to this Contravention, is, that at that Time three Men of War were ſent under frivolous Pretences to reinforce the Squadron at *Jamaica*, and that ſome Troops, and a great Quantity of warlike Stores, were ſent thither on board ſeveral Ships. This Contravention is not unlike that of *Florida* in 1735, when it was agreed, that all Things ſhould remain in *ſtatu quo*, till the Limits were regulated by the two Governors; the *Engliſh* Governor nevertheleſs went on in extending his Plantations, and committed ſeveral Hoſtilities againſt the *Spaniards*, and his Catholic Majeſty's *Indian* Vaſſals. Nor is

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this Contravention muck unlike that in 1724, they both being Contraventions of open Treaties made with *Spain*.

'The 3d Contravention is founded on what was agreed to by his Catholic Majeſty's Declaration, as the only Way to ſurmount ſo many Difficulties in Debate. The Words are, 'And in order that the ſaid Convention may be ſigned, his 'Catholic Majeſty reſerves to himſelf, entire, the Right of ſuſ'pending the *Aſſiento* of Negroes, and to diſpatch the Or'ders neceſſary for the Execution thereof, in caſe the Com'pany does not ſubmit to pay, within a ſhort time, 68,000 *l.* '*Sterling*, which it has confeſſed to owe on the Profits of the 'Ship the *Royal Caroline:* And that under the Validity and 'Strength of this Proteſt, and no otherwiſe, the ſigning the 'ſaid Convention may be proceeded on, and in conſequence 'of this *ſpecial Condition, which may not be eluded on any* '*Pretence whatſoever*, his Catholic Majeſty has been in'duced thereto.'

'Nothing can be plainer or ſtronger than this Declaration, and yet, when the Conferences came to be opened, ſo little Regard was paid to it, that the *Engliſh* Plenipotentiaries begun with preſenting a Memorial to demand the Effects taken in the *Indies* from the *Aſſiento* Company, by way of Repriſals in 1718 and 1727; and proteſted, that, until that Account was cleared, there would be no Payment of 68,000 *l.* *Sterling*, which was the Balance of a ſettled Account: Contrary to all Juſtice, they would confound a ſtated Sum, and put it upon an equal Foot with a Sum not at all ſtated or ſettled. His Majeſty had offered two Schedules for the Viceroys of *Peru* and *Mexico*, with an Order to pay, without any Delay, to the *Aſſiento* Company, what they ſhould prove due to them on account of the ſaid Repriſals; it was as much as he could grant: But the 68,000 *l.* *Sterling* was a ſettled, ſtated, executive Debt, payable within a ſhort Time; it was the Baſis and Foundation of the Convention, a Condition not to be eluded, under the Validity of which the ſigning was proceeded on, and not otherwiſe, as is expreſsly ſet forth in the Declaration, which was concerted with Mr. *Keene*, and notified four Days before the ſigning the Convention. Whence it reſults, that the *Engliſh*, by eluding the ſaid Condition, have themſelves broke and vacated the Subſtance and Validity of the ſaid Convention.

'The Pretence of the *Engliſh* carries along with it another Contravention; for, by the ſecond ſeparate Article, this Affair was to be debated only in ſeparate Negotiations, and not in the Conferences.

'The fourth Contravention is a Sequel to the former. The *Engliſh* Plenipotentiaries deſired to have it declared, that

that the King had not a Power to ſuſpend the *Aſſiento* Contract, as being a national Treaty; whereas the contrary was expreſsly ſpecified in the abovementioned Declaration, on the Validity of which depended the Validity of the Convention, Every body muſt ſee, that the *Engliſh* Miniſtry, inſtead of obliging the Company to pay the King the 68,000 *l.* are ſeeking to elude the Payment of it, in Defiance of the Convention, and of the Declaration; and would oblige the King to pay himſelf out of other Funds, by ſuch Artifices undermining the very Foundation on which the Convention is built.

'The fifth Contravention is making a direct Application to the King, for the Reſtitution of an *Engliſh* Ship that was taken ſince the Convention was ſigned, contrary to the ſecond ſeparate Article, that refers all Matters that ſhall happen ſubſequent to the ſigning of the Convention, to the Diſcuſſion of the Plenipotentiaries in the Conferences.

'The ſixth is, that whereas the Plenipotentiaries were to be furniſhed with Inſtructions within ſix Months, yet it was eight Months before *England* had ſent any.

'It will not be improper here to take Notice of the *Engliſh* Miniſtry's little Faith in his Catholic Majeſty, though his Majeſty had given a fair Example of Confidence in the 4th Article of the Convention An Eſtimate having been made of ſix or ſeven Ships, the Value whereof is compriſed in the 95,000 *l. Sterling*; it is in that Article agreed, that as his Majeſty had ſent Orders to the *Indies* to make Satisfaction for thoſe Ships, if it ſhould happen, that, in Conſequence of his Orders, a Part, or the whole Value of the ſaid Ships, ſhould be paid, the Sums ſo paid ſhould be deducted out of the 95,000 *l.* This laſt Sum was to be paid in four Months, without making any Terms about the Money paid in the *Indies*, purſuant to the aforeſaid Order; his Catholic Majeſty truſting entirely to the Honour and Juſtice of the King of *Great Britain*.

'The 7th Contravention is, That the *Engliſh* Plenipotentiaries inſiſted on a Liberty of free Navigation in all the *American* Seas, claiming a Right to it by the Laws of Nations, by Treaties, and particularly by the 15th Article of the Treaty of 1670. This is a direct Infraction of the firſt Article of the Convention, wherein it is expreſsly ſtipulated, 'That the reſpective Pretenſions of the two Crowns, with re-'gard to Trade and Navigation in *America*, and *Europe*, ſhall 'be regulated and ſettled in the Conferences, according to 'Treaties, which are there ſpecified.' What is exacted here, as a manifeſt inconteſtable Right, is a Pretenſion and Claim in virtue of Treaties; and there could not be a better Me-

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thod of ſettling thoſe Pretenſions, than to examine all thoſe Treaties thoroughly, and compare them together, ſo as to come at the true and honeſt Senſe and Meaning of them, without any Regard to the partial Meanings or Conſtructions of either of the Parties. This was the Proviſional Anſwer the Catholic King gave to the *Engliſh* Plenipotentiaries Memorial of the 19th of *February*; nor could he have given any other, all Points relating to Trade and Navigation being ſubmitted by the Convention to the Determination of the Plenipotentiaries. The *Britiſh* Miniſter inſiſted ſtill on a free Navigation, and that it ſhould not meet with any Interruption from the *Spaniſh* Guarda Coſtas. The King anſwered, *That there ſhould be no Interruption contrary to Treaties.* Thereupon the Miniſter, in harſh Terms, and in Defiance of the Convention, inſiſted, That, without waiting to examine Treaties, a full Freedom of Navigation in all the *American* Seas ſhould be forthwith agreed to. *England* has no Right of free Navigation, but to and from its own Colonies, in the ſame Manner as is ſtipulated with the States-General, who never pretended to, or deſired more. This being a critical Point, it is proper to explain it diſtinctly and clearly.

'It is declared by the eighth Article of the Treaty of *Utrecht* in 1713, That the Navigation of the *Engliſh* in *America* ſhall contidue on the ſame Foot that it was in the Reign of *Charles* the Second. It is beyond all Diſpute, that, during that Reign, all Strangers were excluded by the fundamental Laws of the Kingdom, from trading with, or entering into the *Spaniſh Weſt-Indies*; and that the ſole Liberty or Freedom thereof was reſerved to the *Spaniards*. By the ſame Article, Queen *Anne* obliged herſelf not only to obſerve, but likewiſe to guarantee thoſe fundamental Laws; and, of conſequence, could not pretend to any further or other Right of free Navigation, but to and from her own Colonies. It was all that thoſe Laws did admit of, and all that was practiſed in the Reign of *Charles* the Second. The Queen alſo obliged herſelf to pay a due Regard to, and guarantee the Limits in thoſe Times; and, where any Encroachments had been made upon them, to reſtore and ſettle them upon the former ancient Footing. But this Part was not then complied with; which gives room for the preſent Diſputes about new Colonies, the Removal of Frontiers, and Uſurpation of Territories and whole Iſlands.

'What has been now ſaid, is ſufficiently ſupported and proved by the Stipulation with the States General in the thirty-firſt Article of the Treaty of *Utrecht* in 1713. His Catholic Majeſty obliges himſelf to re-eſtabliſh and maintain the Navigation and Trade of theſe ſame *Spaniſh Weſt-Indies*

agreeable

greeable to the Fundamental Laws of *Spain*, which prohibit all Foreign Nations from trading with, or entring into them; that Privilege and Benefit being reſerved ſolely for the *Spaniſh* Subjects of his Catholic Majeſty; and their High Mightineſſes promiſe to give his Majeſty their Aſſiſtance to fulfil this Article. In former Treaties with them, all that was ſtipulated was a free Navigation to their Colonies, and not to all the other Seas that were within his Catholic Majeſty's Juriſdiction and Dominion, which are diſtinguiſhed by the Character of the *Spaniſh Indies*, whereunto all Entrance and Trade are prohibited for very good Reaſons: For as it is prohibited, as aforeſaid, to trade with, or enter into the Ports or Harbonrs of the *Spaniſh Indies*, and Foreign Nations having no Colonies that require paſſing near thoſe Seas, the claiming a Right of free Navigation to or near them can be with no other View, nor for any other Purpoſe than to increaſe the illicit, unwarrantable Trade which the *Engliſh* have for a long Time and do ſtill carry on; a Trade that is already grown to too unreaſonable an Extent, it yielding yearly ſeveral Millions, as they themſelves confeſs; a Trade that is contrary to all Laws of Juſtice and Equity, prejudicial to the Trade allow'd to, and enjoy'd by other Nations, and greatly hurtful and injurious to his Catholic Majeſty's Revenues and Government. Ann. 12 Geo. II. 1739.

'There is all the Reaſon in the World to be ſurprized at this Demand, ſince the *Engliſh* imagine, and pretend they may, even in the midſt of *Europe*, aſſume to themſelves the ſupreme Dominion on the Ocean, though it be common to all Sovereigns whoſe Dominions it waſhes; and laying a Streſs on the Name they give it of *Britiſh* Sea, would not only exact, that the Ships of all Nations ſhould ſtrike their Colours before theirs in that Sea, but have alſo endeavour'd to attribute to themſelves the Right of giving Leave to fiſh in them, and to make other Powers pay for that Liberty! How can thoſe who form ſuch groundleſs Pretenſions in the Seas of *Europe*, which belong no more to them than to other Nations, exclaim againſt the *Spaniards*, when they do nothing in *America*, but refuſe to abandon the Seas they poſſeſs all the Coaſts of, to an arbitrary Navigation, and take juſt Precautions againſt Smuggling, and the unlawful Trade carried on in the *Spaniſh* Dominions, which are the only Deſign or Object of that Navigation?

'What has been ſaid above is alſo proved by the fifteenth Article of the Treaty of 1670, which is alledged; for in the Beginning thereof it is ſaid, *That each of the contracting Parties ſhall have and retain the Lordſhip of the Seas, Streights, and freſh Waters in* America, *which belonged to them.*

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them. Then all the Seas are not free, and there are ſome proper Lordſhips which the Sovereigns ought to enjoy privately or excluſively of all others, and, conſequently, we muſt not underſtand theſe Words, *free Navigation*, otherwiſe than as they are limited at the End of the ſaid Article, viz. *When nothing ſhall have been committed againſt the natural Senſe and Diſpoſition of the preceding Articles.* And as it is regulated by the eighth Article, that the Subjects of either of the two contracting Kings ſhall not navigate nor trade in the Dominions poſſeſſed by the other Party in the ſaid Weſtern Iſlands, it follows, that the ſaid free Navigation is limited to the Dominions which belong to one or other of the two Kings, and that the Treaty extludes all Navigation and Trade in the Dominions and Seas of the one to thoſe of the other.

This is the literal, natural and true Senſe of theſe Treaties, and what is therein underſtood by the Words *free Navigation*. Every time that *England* will get them examined by its Miniſters with thoſe of *Spain*, as it was agreed they ſhould be by the Convention, ſhe will find ſhe has no juſt Motive to complain, nor any Reaſon to grant Letters of Repriſals, which ought to be grounded on a Refuſal of Juſtice. And ſince it is *England* who has infringed all the Articles of the Convention, and has herſelf ſet an Example of it to the King of *Spain*, who, as has been ſeen, ſigned it only under the expreſs Condition, that Regard ſhould be had to his Declaration, and the Proteſtation therein inſerted, the Denial of Juſtice cannot be imputed to *Spain*, but, in fact, to *England*, who, by its poſterior Contraventions above-mention'd, has evaded and annulled the Convention, from which, notwithſtanding the Contraventions above expreſſed, neither of the two Parties can deſiſt, becauſe, as it was drawn up by common Conſent, there muſt be a like Conſent to diſſolve it.

'*England* had as little Reaſon to order its Plenipotentiaries to break off the Conferences, as they did by their Memorial of the ninth of *July*; ſhe has not found her Intereſt in making thoſe great Armaments, in preſſing her Neighbours to arm in her Behalf, and ſolliciting them to be ready at all Events, becauſe the Neighbours of the latter would, by ſeeing them make unſeaſonable Preparations, and without any Neceſſity, regulate themſelves by that Example, and would, on their Part, put themſelves on their Guard, and the public Tranquility would infallibly ſuffer by it. In this Caſe the bad Conſequences thereof muſt be imputed to thoſe who perſuade, and thoſe who ſuffer themſelves to be perſuaded. The only Aim of *England* is to maintain and preſerve by her Arms, and by thoſe of her Neighbours, the unjuſt Uſurpations of the Iſlands and Territories ſhe has invaded in

Breach

Breach of the Treaty of *Utrecht*, and to maintain herſelf in the clandeſtine Trade ſhe carries on, to the Prejudice of the lawful Trade of the Allies of *Spain*: Whereas that Crown ſeeks no other thing than to defend its Honour againſt the Calumnies whereby it is attack'd, and to maintain the Intereſt of its Dominions, and thoſe of its Allies, by ſcrupulouſly obſerving Treaties, offending or inſulting no Nation, and ſeeing, but with Concern, the Breach *England* gives to the Peace, and, conſequently, to the public Repoſe.' Ann. 13 Geo. II. 1739.

Oct. 23. War was proclaimed againſt *Spain* by the Heralds at Arms as follows:

His Majeſty's Declaration of War againſt the King of *Spain*.

GEORGE R.

'WHereas many unjuſt Seizures have been made, and Depredations carried on for ſeveral Years in the *Weſt-Indies*, by *Spaniſh Guarda Coſtas*, and other Ships, acting under the Commiſſion of the King of *Spain*, or his Governors, contrary to the Treaties ſubſiſting between us and the Crown of *Spain*, and to the Law of Nations, to the great Prejudice of the lawful Trade and Commerce of our Subjects; and great Cruelties and Barbarities have been exerciſed on the Perſons of divers of our Subjects, whoſe Veſſels have been ſo ſeized, and the *Britiſh* Colours have been inſulted in the moſt ignominious Manner: And whereas we have cauſed frequent Complaints to be made to the King of *Spain*, of theſe violent and unjuſt Proceedings, but no Satisfaction or Redreſs has been given for the ſame, notwithſtanding the many Promiſes made, and Cedulas iſſued, ſigned by the ſaid King, or by his Order, for that Purpoſe: And whereas the Evils above-mentioned have been principally occaſioned by an unwarrantable Claim and Pretenſion, ſet up on the Part of *Spain*, that the *Guarda Coſtas*, and other Ships, authorized by the King of *Spain*, may ſtop, detain, and ſearch the Ships and Veſſels of our Subjects navigating in the *American* Seas, contrary to the Liberty of Navigation, to which our Subjects have not only an equal Right with thoſe of the King of *Spain*, by the Law of Nations, but which is moreover expreſsly acknowledged and declared to belong to them by the moſt ſolemn Treaties, and particularly by that concluded in the Year One Thouſand Six Hundred and Seventy: And whereas the ſaid groundleſs Claim and Pretenſion, and the unjuſt Practice of ſtopping, detaining, and ſearching Ships and Veſſels navigating in the

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Seas of *America*, is not only of the moſt dangerous and deſtructive Conſequence to the lawful Commerce of our Subjects, but alſo tends to interrupt and obſtruct the free Intercourſe and Correſpondence between our Dominions in *Europe*, and our Colonies and Plantations in *America*, and by Means thereof to deprive us and our Subjects of the Benefit of thoſe Colonies and Plantations; a Conſideration of the higheſt Importance to us and our Kingdoms; and a Practice which muſt affect, in its Conſequence, all other Princes and States of *Europe*, poſſeſſed of Settlements in the *Weſt-Indies*, or whoſe Subjects carry on any Trade thither: And whereas, beſides the notorious Grounds of Complaint above-mentioned, many other Infractions have been made on the Part of *Spain*, of the ſeveral Treaties and Conventions ſubſiſting between us and that Crown, and particularly of that concluded in the Year One Thouſand Six Hundred and Sixty Seven, as well by the exorbitant Duties and Impoſitions laid upon the Trade and Commerce of our Subjects, as by the Breach of ancient and eſtabliſhed Privileges, ſtipulated for them by the ſaid Treaties; for the Redreſs of which Grievances the ſtrongeſt Inſtances have been, from time to time, made by our ſeveral Miniſters reſiding within *Spain*, without any Effect: And whereas a Convention for making Reparation to our Subjects for the Loſſes ſuſtained by them, on Account of the unjuſt Seizures and Depredations committed by the *Spaniards* in *America*, and in order to prevent for the future all the Grievances and Cauſes of Complaint therein taken Notice of, and to remove abſolutely, and for ever, every thing which might give Occaſion thereto, was concluded between us, and the King of *Spain*, on the Fourteenth Day of *January* laſt, *N. S.* by which Convention it was ſtipulated, that a certain Sum of Money ſhould be paid at *London*, within a Term therein ſpecified, as a Balance admitted to be due on the Part of *Spain*, to the Crown and Subjects of *Great Britain*; which Term expired on the Twenty-fifth Day of *May* laſt, and the Payment of the ſaid Sum was not made according to the Stipulation for that Purpoſe; by which Means the Convention above-mentioned was manifeſtly violated and broken by the King of *Spain*, and our Subjects remained without any Satisfaction, or Reparation for the many grievous Loſſes ſuſtained by them; and the Methods agreed upon by the ſaid Convention, in order to the obtaining future Security for the Trade and Navigation of our Subjects, are, contrary to good Faith, fruſtrated and defeated; in Conſequence of which, we found ourſelves obliged, for vindicating the Honour of our Crown, and for procuring Reparation and Satisfaction

tisfaction for our injured Subjects, to order, that general Re- Ann. 13 Geo. II. 1739.
priſals ſhould be granted againſt the ſaid King of *Spain*, his Vaſſals, and Subjects, and their Ships, Goods, and Effects: And whereas the Court of *Spain* has been induced to colour the open Violation of the Convention aforeſaid, by Reaſons and Pretences, which are void of all Foundation; and, at the ſame Time, has not only publiſhed an order, ſigned by the ſaid King, for ſeizing the Ships, Goods, and Effects belonging to us, and our Subjects, wherever they ſhall be met with, but has cauſed Seizures to be actually made of the Goods and Effects of our Subjects, reſiding in his Dominions, and has alſo ordered our ſaid Subjects to depart out of the *Spaniſh* Dominions, within a ſhort, limited Time, contrary to the expreſs Stipulations of the Treaties between the two Crowns, even in caſe of a War actually declared: We have taken into our Royal and moſt ſerious Conſideration theſe Injuries, which have been offered to us, and our Subjects, and the manifeſt Violation of the ſeveral Treaties ſubſiſting between the two Crowns, all which have been in many Particulars eluded, or evaded, by the unwarrantable Behaviour of the Court of *Spain*, and their Officers, notwithſtanding the repeated Inſtances we have given of our Deſire to cultivate a good Underſtanding with the King of *Spain*, and the eſſential Proofs of our Friendſhip and Regard for him and his Family, which we have demonſtrated to all the World; and being fully ſatisfied, that the Honour of our Crown, the Intereſt of our Subjects, and that Regard which ought to be had to the moſt ſolemn Treaties, call upon us to make uſe of the Power which God has given us, for vindicating our undoubted Rights, and ſecuring to our loving Subjects the Privileges of Navigation and Commerce to which they are juſtly entitled; We therefore, relying on the Help of Almighty God, who knows the Uprightneſs of our Intentions, have thought fit to declare, and do hereby declare War againſt the ſaid King of *Spain*; and we will, in purſuance of ſuch Declaration, vigorouſly proſecute the ſaid War, being aſſured of the ready Concurrence and Aſſiſtance of all our loving Subjects in ſo juſt a Cauſe, wherein the Honour of our Crown, the Maintenance of our ſolemn Treaties, and the Trade and Navigation of our Subjects (which are ſo eſſential to the Welfare and Proſperity of this Nation, and which we are determined, at all Times, with our utmoſt Power to preſerve and ſupport) are ſo greatly concerned: And we do hereby will and require our Generals and Commanders of our Forces, our Commiſſioners for executing the Office of High Admiral of *Great Britain*, our Lieutenants of our ſeveral Counties, Governors of our Forts and Gar-

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riſons, and all other Officers and Soldiers under them, by Sea and Land, to do, and execute all Acts of Hoſtility in the Proſecution of this War againſt the ſaid King of *Spain*, his Vaſſals, and Subjects, and to oppoſe their Attempts; and we do hereby command, as well our own Subjects, as advertiſe all other Perſons, of what Nation ſoever, not to tranſport, or carry any Soldiers, Arms, Powder, Ammunition, or other contraband Goods, to any of the Territories, Lands, Plantations, or Countries of the ſaid King of *Spain*; declaring, that whatſoever Ship or Veſſel ſhall be met withal, tranſporting, or carrying any Soldiers, Arms, Powder, Ammunition, or other contraband Goods, to any of the Territories, Lands, Plantations, or Countries of the ſaid King of *Spain*, the ſame being taken, ſhall be condemned as good and lawful Prize.

Given at our Court at *Kenſington* the Nineteenth Day of *October*, 1739. in the Thirteenth Year of our Reign.

God ſave the KING.

The SIXTH SESSION of the Second Parliament of King *George* the Second, was opened *November* 15, 1739, with a Gracious Speech from the Throne to both Houſes: Which ſee in *Chandler*'s Hiſtory *An.* 13. *Geo.* II. 1739. p. 88, and his Majeſty being withdrawn, the Lord *Hinton* roſe up and ſpoke to the following Effect.

Lord *Hinton*.

'My Lords, as you have heard his Majeſty's moſt gracious Speech from the Throne, and as it is our Duty to return ſome ſort of Anſwer by way of an Addreſs, I ſhould not think myſelf under a Neceſſity to ſay any thing in Favour of the Motion which I am to make, in purſuance of a Cuſtom ſo reaſonable and ſo long eſtabliſhed, if it were not that, upon ſo extraordinary and ſo important an Occaſion, I think we ought to expreſs our Duty and Affection to our Sovereign, in Terms more explicit than uſual. For this Reaſon, I muſt beg leave to ſay ſomething with Regard to the Meaſures his Majeſty has purſued, and with Regard to the Situation in which we are at preſent.

'As to the Meaſures purſued by his Majeſty, my Lords, it is well known, that he has in every Thing followed the Advice given him by his Parliament. According to that Advice, he endeavoured as much as poſſible to obtain Juſtice and Satisfaction from *Spain* by peaceable Means. He even avoided

avoided putting the Nation to the Expence of warlike Preparations, till he was adviſed by his Parliament to inſiſt peremptorily upon immediate Satisfaction for paſt Injuries, and abſolute Security againſt future; and when the *Spaniards* ſaw that his Majeſty, by the Advice of his Parliament, not only threaten'd, but was preparing to make the juſt Reſentment of this Nation fall heavy upon them, they then thought fit to procraſtinate at leaſt the Effects of that Reſentment, by agreeing to reaſonable Terms. Ann. 13 Geo. II. 1739.

'To a trading Nation, my Lords, eſpecially a Nation like this, whoſe Intereſt it is to remain ſatisfied with its own Poſſeſſions, without attempting to make Conqueſts upon its Neighbours, a State of War muſt always be dangerous and inconvenient, and can never be attended with any great Advantage. This his Majeſty was fully ſenſible of, and therefore he ratified the Convention agreed to by *Spain*. This the Parliament was fully ſenſible of, and therefore that Convention was laſt Seſſion approved of by a Majority in each Houſe of Parliament, tho' both his Majeſty and his Parliament ſaw that it was not ſo ſatisfactory as might have been expected, and that as to moſt of the Articles in Diſpute, it was rather a Preliminary than a definitive Treaty; but by a Fatality, happy, I hope, for this Nation, the *Spaniards* refuſed to comply with the Terms they ſo ſolemnly agreed to by that Convention, tho' thoſe Terms were the moſt moderate this Nation could accept of, and more moderate by far than the *Spaniards* had Reaſon to believe we would accept of. Theſe Terms, I ſay, without the leaſt Failure on our Part, the *Spaniards* thought fit not to comply with, and thereby they rendered it neceſſary for his Majeſty to begin Hoſtilities againſt them, in purſuance of that Advice which had been given him by his Parliament. This he accordingly did as ſoon as he could find an Opportunity, and when he found, that the gentle Method of Repriſals would not be ſufficient for bringing them to Reaſon, he declared War againſt them in Form.

'Thus, my Lords, his Majeſty has, in every Step of his paſt Conduct, purſued that Advice which was given him by his Parliament. From hence we may preſume, he will follow the ſame Advice in every Step of his future Conduct; and from hence we may promiſe ourſelves Succeſs in all our public Undertakings; for this Nation has always been happy and ſucceſsful, when our Sovereign followed the Advice of his Parliament. In all ſuch Caſes, the Parliament unanimouſly agreed to ſupport their Sovereign, in the Purſuit of thoſe Meaſures which they themſelves had adviſed: It was their Duty to do ſo; and the People heartily concurred in rendering

Ann. 13 Geo. II. 1739.

rendering every Step ſucceſsful. This has been the happy State of this Nation in ſome former Reigns, and as none of our Kings ever ſhewed a greater Regard for the Advice of Parliament, than his preſent Majeſty has always done, I hope that, in Duty and Affection to their Sovereign, the preſent Generation will take Care not to fall ſhort of their Anceſtors in any former Reign.

'His Majeſty, my Lords, by your Advice, is now engaged in an open and declared War. It is one of the moſt juſt and neceſſary Wars this Nation was ever engaged in; for the *Spaniards* have not only heaped many Injuries upon us, but have broke thro' the moſt ſolemn Engagements that were ever made by any Nation. What their Reaſon was for treating us in this contemptuous Manner, his Majeſty has told us in his Speech from the Throne, and I am convinced it was the only true Reaſon. They ſaw there were great Animoſities and Diviſions amongſt us, and from theſe they hoped to reap ſome Advantage, in caſe of a War; or perhaps they imagined, our Government would not, on Account of theſe Animoſities and Diviſions, dare to vindicate the Honour, or aſſert the Rights of the Nation. If their Hopes of Impunity were founded upon the latter of theſe Expectations, they have already found themſelves diſappointed; and if upon the former, I hope, they will at laſt find themſelves equally miſtaken; I hope the Unanimity that ſhall this Day be ſhewn, in agreeing to what I am to propoſe, will convince them, that if there were any Diviſions amongſt us, they are now at an End; and that therefore they can from thence expect no Advantage in the Proſecution of the War.

'This, my Lords, may probably put a ſpeedy, as well as honourable End to the War, which is, I am ſure, what every one of your Lordſhips moſt heartily wiſhes to ſee. His Majeſty has already taken all poſſible Care, by providing for our Defence at home, to prevent its being in the Power of our Enemies to hurt us; and as ſoon as the Seaſon will permit, we may attack them with ſuch a Force, as they cannot, in all human Probability, reſiſt. They can, therefore, have no Hopes in proſecuting, no more than they had in provoking the War, but ſuch as are founded upon Diviſions amongſt ourſelves. If it had not been for ſuch Hopes, I am fully convinced they would never have provoked us to War; and of, by a cordial Union amongſt ourſelves, we ſhould put an End to theſe Hopes, I am as fully convinced, they will ſoon begin to think of preventing a farther Proſecution by a ſpeedy Submiſſion.

'For this Reaſon, my Lords, we ought this Day, I think, to be more full and explicit in our Expreſſions of Duty and Affection

Affection to his Majeſty, than is uſual upon ſuch Occaſions; and, for the ſame Reaſon, we ought to be unanimous in thoſe Expreſſions of Duty and Affection that are neceſſary upon this Occaſion. This is what I moſt heartily wiſh for, and therefore I have taken all poſſible Care to avoid inſerting any thing in my Propoſition, that may occaſion the leaſt Objection or Difficulty. If there is any thing in it that, to ſome Lords, may appear a little extraordinary, I hope I have given ſufficient Reaſons for it, therefore ſhall add no more, but conclude with moving your Lordſhips, 'That an humble Addreſs be preſented to his Majeſty, to return Thanks for his moſt gracious Speech from the Throne. —— To declare, that the great Regard, which his Majeſty hath expreſſed for the Senſe of both Houſes of Parliament, in his Proceedings with the Court of *Spain*, is a Continuance of that Goodneſs and Concern for the true Intereſt of his People, which we have ſo often experienced; and that his Majeſty's Deſire to have the Advice and Aſſiſtance of his Parliament, as early as poſſible, in this important Conjuncture, is a freſh Proof of his Confidence in his faithful Subjects. —— That the Juſtice and Neceſſity of the War, which his Majeſty has been pleaſed to declare againſt *Spain*, muſt be as demonſtrable to all the World, as the violent and intolerable Methods practiſed by that Nation, to interrupt and diſtreſs the Commerce and Navigation of theſe Kingdoms, are notorious; and, that it is the higheſt Aggravation of this offenſive and inexcuſable Conduct, that it has been obſtinately purſued, in Breach of the moſt ſolemn Engagements, and in Defiance of the higheſt Obligations of Friendſhip and good Offices: But, that ſince *Great-Britain* has been thus unavoidably called forth to Arms, we eſteem it our peculiar Felicity, that we have a Prince upon the Throne, who, with paternal Tenderneſs, joins in the juſt Reſentments of an injured Nation; and whoſe Magnanimity and Steadineſs are equal to the glorious Cauſe in which he is engaged. -- That on this Occaſion, the unfeigned Tender of our Lives and Fortunes is no more than is due to his Majeſty, and our Country; and that we do, from the Bottom of our Hearts, give his Majeſty the ſtrongeſt Aſſurances that we will zealouſly concur in all ſuch Meaſures, as may forward his Preparations, and enable him to carry on the War with that Spirit and Vigour, which truly become the *Britiſh* Name. —— That his Majeſty's Goodneſs in acquainting us from the Throne, that he has augmented his Forces by Sea and Land, purſuant to the Power given him by Parliament, with all the Moderation that was conſiſtent with thoſe deſirable Ends, which he, in his royal Wiſdom, has pointed out to us, is an Inſtance of his Majeſty's gracious

Ann. 13 Geo. II. 1739.

Ann. 13 Geo. II. 1739. gracious Diſpoſition to avoid bringing any unneceſſary Burdens upon his People: And, that tho' we cannot flatter ourſelves, that a State of War will not be attended with great Expences, and ſome Inconveniencies; yet, when it is undertaken, not to gratify the Views of reſtleſs Ambition, but to aſſert and maintain the Honour and juſt Rights of his Majeſty's Crown and Kingdoms, we doubt not, but thoſe powerful Motives will induce all his Subjects to undergo with Chearfulneſs, whatever is neceſſary in the Proſecution of it. —That it gives us inexpreſſible Concern, that there ſhould be any Occaſion for his Majeſty to repeat his gracious Admonitions againſt thoſe Heats and Animoſities, which have been fomented throughout the Kingdom: That as we cannot but moſt ſeriouſly lament the unhappy Diviſions thereby occaſioned, ſo nothing ſhall be wanting on our Part to heal them, by promoting that good Harmony and Unanimity, which are ſo neceſſary at this Juncture: And that we truſt in God, that any Hopes or Views formed by our Enemies upon ſuch Circumſtances, will be found utterly vain and groundleſs; ſince all his Majeſty's Subjects muſt be convinced, that the Security of our Religion and Liberties, and the Safety and Proſperity of theſe Kingdoms, do entirely depend on the Preſervation of his ſacred Perſon and Government, and of the Proteſtant Succeſſion in his royal Houſe. —That in this common Cauſe, Intereſt, as well as Duty, will make us unite; and that we do with the greateſt Zeal and Firmneſs aſſure his Majeſty, that we are determined, at the Hazard of all that is dear to us, to ſupport it againſt all his Enemies, both at home and abroad; imploring the divine Providence to give Succeſs to his Arms, and make them the happy Means of procuring a ſafe and honourable Peace.'

This Motion being ſeconded by the Lord Viſcount *Falconberg*, Lord *Carteret* ſtood up, and ſpoke to the following Effect.

Lord *Carteret*. 'My Lords, as the Motion the noble Lord has been pleaſed to make is pretty long, I cannot pretend to remember exactly the Words, and as, upon hearing it read, I obſerved ſome Words which, to me, ſeemed not quite ſo right, I muſt deſire the Favour to have the Motion in my Hand. (The Motion being delivered to him, after peruſing it, he went on thus) My Lords, as this is one of the greateſt, one of the moſt important Conjunctures that ever happened to this Nation, I deſire and wiſh as heartily as the noble Lord who made you this Motion, or any Lord can do, that we may be unanimous in the Reſolution we come to upon this Occaſion. The greateſt Part of the noble Lord's Motion,

I highly approve of. There are only a few Words towards the latter End, which I think might have been left out; and as they are, in my Opinion, quite unneceſſary, I hope the noble Lord will, for the Sake of that Unanimity he ſo much deſires, agree to have them left out of his Motion. The Words I mean are, That it gives us inexpreſſible Concern, with the following, which make the laſt Paragraph but one, of the noble Lord's Motion. Theſe Words, I humbly think, my Lords, are quite unneceſſary; and, as they may give Offence to ſome Lords, and may occaſion an Oppoſition to a Reſolution, which would otherwiſe be unanimouſly agreed to, I hope the noble Lord will not inſiſt upon their ſtanding a Part of his Motion. But I offer this as my Opinion only, I do not make it my Motion, becauſe I am reſolved to wait till I hear what may be ſaid by other Lords upon this Head.

'My Lords, we have now weathered the Point of Negotiation, and are fairly launched out in the open Sea of a declared War. God grant we may meet with a proſperous Gale. We have human Probability of our Side, and as we have Juſtice likewiſe of our Side, we have reaſon to expect the Favour of Providence; therefore, I have no doubt of a ſucceſsful Voyage, if we take care to put ourſelves under the Direction of good Pilots. Miniſters and Negotiators will not, I hope, I am ſure they ought not now, to be our Adviſers. We have good Generals, we have brave and experienced Admirals: We muſt now chuſe them for our Pilots: We muſt take their Advice; and, if their Advice be taken, and vigorouſly purſued, I ſhall not hereafter find fault with Events, on account of any croſs Accidens we may meet with in the Proſecution of the War. Providence only can direct Events, but Men can plan; and if the Plan be good, if the Scheme be well laid, no Man ought to find fault with the Event. But, if the forming of our Schemes for the Proſecution of the War be left to ignorant and puſillanimous Counſellors, we cannot expect they ſhould be right; and a wrong Scheme may be found fault with, even tho' the Event ſhould, by an extraordinary Interpoſition of Providence, prove ſucceſsful.

'In the Proſecution of the preſent War, I hope every Man will, in his proper Sphere, contribute as much as he can towards the Succeſs of his Country. My Lords, I am perſuaded every Man will; becauſe no War was ever entered into with greater Unanimity amongſt all Ranks and Degrees of Men. We cannot, therefore, juſtly ſay any Thing upon this Occaſion, of Animoſities and Diviſions. If there were ever any domeſtic Animoſities or Diviſions amongſt us,

Ann. 13 Geo. II. 1739. they were occaſioned by our tamely ſubmitting to ſo many foreign Inſults. Theſe his Majeſty's Declaration of War has put an End to, and nothing can revive them but a Slackneſs in the Proſecution. For this Reaſon I wiſh they had not been mentioned upon this Occaſion. I'm afraid it is ominous: It looks as if ſome People were ſuſpicious that the War will not be puſhed in ſuch a vigorous Manner as a People greatly injured, and juſtly enraged, may have Reaſon to expect. If this be the Caſe, they have good Reaſon to warn us againſt Animoſities and Diviſions; but their Warnings will be in vain. Our former Diviſions will revive, and our Animoſities may increaſe to ſuch a Degree, as to endanger the domeſtic Tranquillity of the Nation, unleſs they be appeaſed by a Sacrifice of thoſe who were the Cauſe of their being revived.

'For this Reaſon, I ſay, my Lords, I wiſh I had heard nothing of Animoſities or Diviſions upon this Occaſion; and I am ſurprized how any ſuch Thing could creep into his Majeſty's Speech. In a free Country, ſuch as this, Lords or Gentlemen may differ in their Opinions about public Meaſures; and as the Intereſt of their Country is concerned, they may, they ought to ſupport their Opinions with Fervency and Zeal: But that Difference in Opinion is not to be called a Diviſion; nor is that Fervency to be called Animoſity. Something of our Diviſions and Animoſities was, I remember, mentioned in a Piece that was handed about as the Manifeſto of *Spain*. This I was no way ſurprized at; becauſe in *Spain* they can have no Difference in Opinion about public Meaſures; at leaſt, if they have, they dare as little declare it, as they dare declare their Difference of Opinion about Matters of Faith or Religion; therefore, they might, probably miſtake the one for the other, by ſuppoſing that to be a Diviſion amongſt us, which was really nothing but a Difference in Opinion. But, I hope, his Majeſty's Miniſters are better acquainted with the Conſtitution of their Country, than to fall into any ſuch Miſtake; and they ſhould particularly, upon this Occaſion, have avoided ſaying any thing about Diviſions or Animoſities, becauſe it will confirm the *Spaniards* in the Miſtake they are in; and may, as the noble Lord apprehends, encourage them to continue the War, in hopes that they may be able to reap ſome Advantage from our Diviſions.

'From hence your Lordſhips muſt ſee, that no ſuch Thing ought to have been mentioned in his Majeſty's Speech from the Throne; and much leſs, I am ſure, ought it to be mentioned in our Addreſs. If his Majeſty's Miniſters have fallen into a Miſtake, and a Miſtake too that may be attended with ſuch

ſuch a bad Conſequence, as that of prolonging the War, ſhall we, in our Addreſs, out of pure Complaiſance, echo that Miſtake back to the Throne, and thereby render infallible the bad Conſequence which we might otherwiſe have prevented? Shall we, my Lords, be ſo uncharitable as to think, and much leſs to ſay, that all thoſe who differ from us in Opinion about public Meaſures, are Promoters of Diviſions, and Fomenters of Heats and Animoſities? It is impoſſible that any Lord ſhould expect an unanimous Concurrence in ſuch Expreſſions. They are Expreſſions that can properly be made uſe of by none but the arbitrary Miniſters of an abſolute Monarch; and therefore, I was not a little ſurprized at ſeeing any Thing like them in his Majeſty's Speech from the Throne; but I was much more ſurprized, to find the Obſtinacy of the *Spaniards* imputed to the Heats and Animoſities that have been fomented amongſt us. It is a Maxim in this Houſe, to look upon his Majeſty's Speech from the Throne, as the Speech of his Miniſters; and nothing can contribute more to ſhew the Juſtneſs of this Maxim, than that of imputing the Obſtinacy of the *Spaniards* to any Heats or Animoſities that have been fomented amongſt us.

'Almoſt every Man in the Nation, I believe, is now convinced, at leaſt every Man that thinks at all about public Affairs, muſt be convinced, that the ſtrange Obſtinacy of the *Spaniards* has all along proceeded from the known Paſſivity of our Miniſters. We ſubmitted tamely to the firſt Inſult they put upon us, that encouraged them to put a Second: We bore the ſecond with Patience, that encouraged them to put a Third. Upon the Third we modeſtly complained, and humbly prayed to negotiate; that encouraged them to put a Fourth: And thus we continued ſubmitting and negotiating, and they continued plundering and inſulting, till, at laſt, I really believe, they began to think that no ſort of Treatment could provoke us to commence Hoſtilities, or declare War againſt them. Thus, by the tame and ſubmiſſive Temper of our Miniſters, the *Spaniards* have been encouraged to hold ſuch a Conduct towards us, as to make it neceſſary, even for our Miniſters, to have Recourſe to Arms; and now thoſe very Miniſters, in order to remove the Load off of their own Shoulders, come and tell us, that thoſe who complained of their ſubmiſſive Conduct, and often told them what it would end in, were Fomenters of Heats and Animoſities; and that thoſe Heats and Animoſities were the chief Cauſe of that Obſtinacy which *Spain* has ſhewn in her Conduct towards us.

'I ſhall readily grant, my Lords, that the juſt Complaints of our plundered Merchants, and the Regard ſhewn to thoſe Complaints by the whole Nation, excepting a very few Perſons,

Ann. 13 Geo. II. 1739. were the immediate Cauſe of the War, becauſe they forced our Miniſters to alter their Conduct; but, I hope, neither the Complaints of the Merchants, nor the Regard ſhewn to them by the People, are to be called Heats and Animoſities; and call them by what Names you will, they were not the Cauſe, but the Effect of that Obſtinacy in *Spain*, of which the Tameneſs of our Miniſters was the Cauſe; conſequently, it is in this Tameneſs alone we are to ſeek for the original Cauſe of the preſent War; for if our Miniſters had reſented, as they ought, the firſt Injury that was done to our Merchants by the *Spaniards*, it would have prevented a ſecond; and, for the firſt, we might by Repriſals, if not by fair Means, have obtained Redreſs, without coming to an open Rupture: Or if we had then come to an open Rupture, we ſhould have prevented a very great Prejudice the Nation has ſuffered by an Interruption of its Trade, and many conſiderable Loſſes our Merchants have ſuſtain'd by the plundering and ſeizing their Ships; and I believe no Man will ſay, we had not then as favourable an Opportunity for engaging in a War againſt *Spain*, as we have at preſent.

'Having thus, my Lords, ſhewn what it really was, that encouraged the *Spaniards* to provoke us to War, I muſt obſerve, that if they ſtill continue obſtinate, it will, I believe, be owing to the ſame Cauſe. They are ſenſible of the Superiority of our naval Force, which, at the ſame time that it enables us to hurt them in the moſt ſenſible Part, may prevent their being able to hurt us in any; and they can have no hopes to reap any Advantage from thoſe Diviſions and Animoſities, which, if there were any amongſt us, his Majeſty has put a final End to, by declaring War againſt them. Their Hopes, therefore, can depend upon nothing but upon our not proſecuting the War with Wiſdom and Vigour. They may, perhaps, hope, that the ſame perplex'd and timorous Spirits will hereafter prevail in our warlike Meaſures, that formerly prevailed in our peaceful Negotiations; and if they continue obſtinate in proſecuting the War, I ſhall conclude that they entertain ſome ſuch Hopes; but I truſt in God they'll find themſelves diſappointed. Our Generals and our Admirals are Men of a different Caſt from what they have experienced in our Miniſters and Negotiators; and if the Conduct of the War be committed to the Care of our Generals and Admirals, as I hope it will, the *Spaniards* will ſoon find they have no- thing to truſt to, but our Mercy and Forgiveneſs.

'I ſhall join with the noble Lord in ſuppoſing, that every one of your Lordſhips wiſhes to ſee a ſpeedy as well as honourable End to the War. It is very much the Buſineſs of this Nation to make the War as ſhort as poſſible; and the

moſt

moſt effectual Method for rendering it ſhort, is to make it violent. War is a ſort of Storm, and like other Storms, the more violent it is, the ſooner it will be over. If we puſh it vigorouſly, and in the right Place, it cannot be of long Continuance. For this Purpoſe the *Weſt-Indies* is the only proper Place. We may plague and harraſs the Enemy by making Incurſions upon the Continent of *Old Spain*, and by burning the Ships in their Harbours, as often as we can get an Opportunity; but *America* is the Place where we ought to direct our chief Force. There the *Spaniards* cannot reſiſt us, and there we may do more than make Incurſions. We may there take and hold ſuch Places, as we think may be either convenient or uſeful. It is what *Spain* cannot hinder: It is what *Europe* cannot prevent; and by holding the Places we take, we add to our own Strength, at the ſame Time that we diminiſh the Strength of our Enemy.

'The late King *William* I ſhall always, my Lords, have a great Regard for. His Actions were right: Even his Thoughts were right. He knew the moſt proper Way for this Nation to puſh a War againſt *Spain*. He knew that the *Weſt-Indies* was the Place where we could moſt injure the Enemy, and benefit ourſelves. For this Reaſon, in the Treaty of Grand Alliance concluded between the *Emperor*, *England*, and *Holland*, in the Year 1701, he took care, by the 6th Article of that Treaty, to ſtipulate, that it ſhould be lawful for him, and the Lords the *States General*, by common Advice, and for the Benefit and Enlargement of the Navigation and Commerce of their Subjects, to ſeize, by their Forces, what Lands and Cities they could, belonging to the *Spaniſh* Dominions in the *Indies*; and that whatſoever they ſhould ſo take, ſhould be their own. That great and wiſe Prince did not live to proſecute his Deſign; but this Article ſhews what were his Thoughts, and even the Thoughts of ſuch a Man may be of great Uſe to his Country. After his Death, we had not ſuch an Influence upon the Councils of the *States General*, as we had before. They began to think it was more for the Intereſt of the Confederacy to make Conqueſts in *Europe* than to make Conqueſts in the *Indies*, therefore they refuſed to join with us in any Undertaking againſt the *Spaniſh* Dominions in the *Indies*, and we could not engage in any ſuch without their Concurrence. The War, 'tis true, could hardly be more glorious and ſucceſsful than it was; but it would probably have been of ſhorter Duration, and would certainly have been more advantageous for this Nation, if the Scheme formed by King *William* had been followed in every Part.

'If

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'If we have now, my Lords, the Misfortune of having no Allies, we have, at leaſt, this Advantage reſulting from it, That in our preſent War againſt *Spain*, we may follow the Plan laid down by that glorious Prince without any Reſtraint, and without aſking the Advice of any Power in *Europe*; therefore, I hope this is the Plan now reſolved on, for our future Operations. I hope they will be chiefly directed towards ſeizing ſuch Lands and Cities belonging to the *Spaniſh* Dominions in the *Indies*, as may contribute towards the Benefit and Enlargement of our Navigation and Commerce; or at leaſt, ſuch as are neceſſary for ſecuring the Freedom of that Navigation and Commerce, which we have now a Right to in thoſe Parts of the World. We have met with ſuch Provocations from *Spain*, as muſt render this War juſt on our Part, in the Eyes of every impartial Judge; and, in the Proſecution of a juſt War, no Power in *Europe* has a Right, few of them can have an Inclination to direct us, or to reſtrain us from making ſuch Conqueſts as may be ſufficient for anſwering the Charge of the War, as well as ſuch as may be neceſſary for preventing our meeting with any Injuſtice for the future.

'The *Spaniards*, my Lords, have for many Years behaved towards us, not only in the moſt unjuſt, but in the moſt cruel and barbarous manner. They have not only in the moſt contemptuous manner inſulted the Crown, but they have in the moſt barbarous manner injured the Subjects of theſe Kingdoms; and that, at a Time when they were profeſſing the greateſt Friendſhip towards us, and receiving many Acts of Friendſhip from us. They have for ſeveral Years been dealing with us in the moſt treacherous manner: But I ſhall avoid giving hard Names. I would not give hard Words even to the *Spaniards*; but I would, and I hope we ſhall, give them very hard Blows; and that, upon the moſt ſenſible Part. Every one knows, my Lords, where that is. It is in *America*, where we can make them feel moſt ſenſibly the Weight of our Reſentment: It is by Conqueſts in that Part of the World, where we can moſt effectually ſecure or enlarge our Commerce and Navigation; and it is there, where they can leaſt reſiſt us. If they have none to aſſiſt them, we muſt, by attacking them vigorouſly in that Part of the World, bring the War to a ſpeedy Iſſue, and to an Iſſue that will be advantageous as well as glorious to this Nation.

'What then have we to fear, my Lords? From a War with the *Spaniards* we have nothing to fear; but from a Peace with them, unleſs it be ſuch a one as we ſhall preſcribe, we have a great deal to fear. Former Experience has ſhewn, that we have nothing to fear from the Force of their

Arms

Arms in Time of War; but late Experience has ſhewn, that we have ſomething to fear from their Treachery in Time of Peace. But ſome Perſons amongſt us may, perhaps, be frightened, leſt the *Spaniards* ſhould be aſſiſted by ſome of the other Powers of *Europe*. My Lords, they can be aſſiſted by none but the *French*; and *France*, in its preſent Circumſtance, and according to that which ſeems to be its preſent Scheme of Politics, will, I believe, be very loth to engage in a War with this Nation. The great Age of him who now ſo worthily preſides over the Councils of that Kingdom, muſt make him deſire to end his Days in Peace; and therefore it is not probable that he will engage in a dangerous War, for ſupporting the romantic and unjuſt Pretenſions of the Court of *Spain*; Pretenſions which may one Day prove as troubleſome and prejudicial to *France*, as they have lately proved to *England*. Beſides, the *French* ſeem now to be more intent upon extending their Trade, than upon extending their Dominions; and, in a War with this Nation, their Trade muſt ſuffer in every Branch: Nay, if we exert our ſeves as we ought, it muſt be entirely ſuſpended.

'But the Difference, my Lords, between this Nation and *France* is, that our Trade is our chief Support, and therefore we muſt ſacrifice every other View to the Preſervation of our Trade: Whereas the chief Support of *France* does not depend upon its Trade, and for this Reaſon the *French* may, on account of other Views, make a Sacrifice of their Trade for a Time. But ſuppoſe they ſhould reſolve to make a Sacrifice of their own Trade, in order to diſtreſs the Trade of this Nation, by joining openly with *Spain* againſt us, what can they do? They muſt fight us by Sea, or not at all: They can attack us no other Way; and there we are greatly ſuperior. The Navies of *France* and *Spain* joined together, are no Match for the Navy of *Great Britain*; and, if we ſhould deſtroy the firſt Squadron they fit out, we might ruin the Dominions of both in the *Weſt-Indies*, before they could be able to fit out another. To talk of their invading us here at Home, as long as we are united amongſt our ſelves, is a mere Bug-bear. We have already properly provided againſt it, by augmenting our Land-Forces, and by covering the Sea with our Ships of War. The Sea, my Lords, when ſo covered, is our Defence and our Safeguard; when not ſo covered, it is our Priſon. His Majeſty's Declaration of War againſt *Spain* has healed all our Diviſions. There is now no Animoſity in the Kingdom, but a moſt general one againſt the *Spaniards*; and an Invaſion from *France*, upon the preſent Occaſion, would unite us more firmly than ever. They cannot therefore attempt to invade us, without ſending at once ſuch an

Army

Ann. 13 Geo. II. 1739. Army as would be ſufficient for conquering the Kingdom. For this Purpoſe, they muſt ſend a very great Army of Horſe as well as Foot; and the providing of Ships for tranſporting ſuch an Army, would take up ſo much Time, and make ſuch a Noiſe abroad, that we muſt hear of it; in which Caſe, we could eaſily ſend a Squadron ſuperior to any they can fit out, to burn their Ships in the Harbour, or to intercept them, if they dared put to Sea.

'In ſhort, my Lords, *France*, by joining in the War, muſt ruin her own Trade, and may diſtreſs ours a little, but ſhe cannot otherwiſe hurt us; and if we are not obliged to maintain great Armies upon the Continent of *Europe*, as we were in the laſt War, we may ſend ſuch a naval Force to the *Weſt-Indies*, as both *France* and *Spain* joined together cannot reſiſt; the Conſequence of which would be, the Loſs of all the Dominions belonging to both theſe Nations in that Part of the World. Therefore, if the *French* ſhould reſolve to join with *Spain* in the preſent War, they can do it no Way with any Effect againſt us, but by endeavouring to overturn the Balance of Power in *Europe*, and for that Purpoſe raiſing a new War upon the Continent, which would of courſe make our former Allies ſue to us, for renewing the antient Confederacy againſt *France* and *Spain*.

'Our former Allies, nay, all the Powers of *Europe*, my Lords, are already ſurprized at our Declaration of War. If we purſue it with Widom and Vigour, it muſt, in all human Probability, be ſucceſsful; and this will make the Powers of *Europe* begin to reſpect us, as much as they have lately deſpiſed us. His preſent Majeſty may be made the greateſt and moſt glorious Prince that ever ſate upon the *Britiſh* Throne; but if our warlike Meaſures ſhould ſtill be interrupted, or rendered languid, by that Spirit of Negotiation which has ſo long prevailed, the Opportunity will ſoon be loſt; and if it ſhould, God forgive them that ſhall be the Cauſe of ſo much Reproach to their Sovereign, and of ſuch irretrievable Hurt and Ignominy to their Country.

'In the preſent War, my Lords, we have as yet no Occaſion for any Allies: I do not know that we ſhall; but if we ſhould, we may ſtill find great and powerful Allies in *Europe*. The Power of the Houſe of *Auſtria* is not yet become ſo deſpicable, as our Advocates for Peace have endeavoured to repreſent; and I hope no Man in *Britain* is now afraid of the overgrown Power of that Houſe. It was never in this Kingdom a national Jealouſy, nor could it ever be made ſo, notwithſtanding the great Pains that were taken, a few Years ſince, to inculcate and propogate ſuch a Jealouſy through all Parts of his Majeſty's Dominions. The Emperor,

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Emperor, therefore, may ſtill be a moſt uſeful Ally to us, and certainly would be ſo, if we were in any real Danger; becauſe we ſhall always be a moſt uſeful Ally to him, when the Balance of Power is in Danger, at leaſt, I am ſure, we ought to be ſo. The King of *Pruſſia* likewiſe is a Power whoſe Alliance we may always depend on, if we follow right Meaſures; and another Power, which is now as formidable as any in *Europe*, will always, I believe, be fond of cultivating a cloſe Alliance and Friendſhip with this Nation. Even the *Dutch*, I believe, might eaſily be brought in to purſue more vigorous Meaſures than they have done of late Years. But theſe Things are not to be done by Negotiation. They are to be done by vigorous Meaſures on our Side, eſpecially in thoſe Affairs that particularly regard ourſelves. If we ſhew the Powers of *Europe*, that we dare reſent our Wrongs, and vindicate our Rights, and that we can do it in a wiſe and vigorous Manner: If we ſhew them, that we can ſtand upon our own Legs, they will apply to us; they will court our Favour, becauſe they will from thence ſee, we can give them Aſſiſtance. A Nation, like a private Man, muſt in vain expect Aſſiſtance from its Neighbours, if they believe it cannot help itſelf. Notwithſtanding the great Pains taken by ſome of our late Dealers in Negotiation, to make the World, as well as ourſelves, believe, that we are in a weak and helpleſs Condition; I hope we ſhall now ſhew, that we are ſtill able to make the proudeſt Nation in *Europe* repent her having dared to inſult us.

'The Hypotheſis of our Politics is now, I hope, quite altered. We are now, my Lords, I hope, upon a right Hypotheſis; and if that Hypotheſis be vigorouſly and ſteadily purſued, no Matter by whom; for it is not Men, but the Hypotheſis of our late Conduct, that I have found Fault with. If the ſame Men ſhould alter the Courſe of their Meaſures: If they ſhould lay down a right Hypotheſis, and follow that Hypotheſis in a proper Manner, I ſhall be as ready to approve, as ever I was to blame their Conduct. But if they have a Mind to alter their Conduct in Time to come, they will forget, they muſt even approve of the Oppoſition that was made to their Conduct in Time paſt; and therefore, they will be far from preſuming to ſay, that the Authors of that Oppoſition were Fomenters of Heats and Animoſities, or that there is now ſubſiſting any Diviſion in the Nation. There is really no ſuch Thing now amongſt us, nor can there be any ſuch Thing in the Courſe of the preſent War, if it be carried on with a Deſign to revenge us, and not with a Deſign only to amuſe us. Therefore, I was ſurprized to hear any Thing of Diviſions and Animoſities

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mentioned in his Majeſty's Speech, but I am much more ſurprized to hear our Diviſions and Animoſities made a Part of a Motion in this Houſe, and that by a noble Lord, who at the ſame Time ſays, he has taken all poſſible Care to avoid inſerting in his Motion, any Thing that may occaſion the leaſt Objection or Difficulty, and that he moſt heartily wiſhes we ſhould be unanimous upon the preſent Occaſion.

'But ſuppoſe, my Lords there had been any real Diviſions and Animoſities amongſt us: Suppoſe theſe Diviſions and Animoſities were ſtill ſubſiſting; would it be right in us to publiſh it to the World? Our Enemies are apt enough to ſay we are a factious and divided People: We find they do ſay ſo; and they will certainly endeavour to propagate that Opinion among thoſe who incline to be our Friends. Shall we then, by an Addreſs, which we know will be publiſhed in all the foreign *Gazettes*, give the World good Ground to believe ſo? Will not this encourage thoſe who are already our declared Enemies to prolong the War? Will it not encourage thoſe who are as yet our ſecret Enemies to declare openly againſt us? Will it not diſcourage our Friends from giving us any Aſſiſtance? If we ſhould come to ſtand in Need of any Alliance, there is nothing, in my Opinion, can be more effectually done for preventing its being in our Power to procure one; therefore, I hope, the noble Lord will agree to leave out of his Motion every Expreſſion that may ſeem to inſinuate, as if there were Diviſions and Animoſities ſtill ſubſiſting amongſt us, eſpecially ſince thoſe Expreſſions muſt be look'd on as a Reflection upon Lords who have, upon former Occaſions, happened to differ from him in Opinion, and conſequently muſt occaſion an Oppoſition to a Motion which would otherwiſe be unanimouſly agreed to.

'Theſe, my Lords, are my Thoughts upon the preſent Occaſion. It was incumbent upon me to offer them to your Lordſhips; but I ſhall make no Motion, till I ſee how other Lords think, with Regard to the Motion now under our Conſideration.

The Duke of *Newcaſtle*.

The Duke of *Newcaſtle*.

'My Lords, I ſhall be heartily glad to ſee the Reſolution we come to upon this Occaſion unanimouſly agreed to; but I would not have us, even for the Sake of Unanimity, be guilty of any Sort of Diſreſpect to his Majeſty. As he has mentioned, and, I think, properly and ſeaſonable mentioned Diviſions, Heats, and Animoſities, we ought, in Reſpect to him, to make ſome Sort of Anſwer to that Part of his Speech;

Speech; and, in my Opinion, we cannot make a more proper Anſwer, than what the noble Lord has been pleaſed to propoſe. That there have been Diviſions amongſt us, and that thoſe Diviſions have been fomented, and even carried the Length of Heats and Animoſities, is what, I think, no Man can deny. I beg Pardon, my Lords, I do not mean in this Houſe, or among your Lordſhips. Your Lordſhips may differ in Opinion, and you may ſupport your reſpective Opinions with Fervency and Zeal. I know you always will, becauſe you have the Good of your Country ſincerely at Heart. But your Lordſhips ſupport your Opinions with Temper and Diſcretion, and never allow a Difference in Opinion, to tranſport you into any Heat or Animoſity.

'This, my Lords, has been, this, I hope, will always be, the laudable Behaviour of your Lordſhips both within Doors and without; but this cannot be ſaid of the reſt of the Nation. Their Differences in Opinion may ſometimes flow from a Differeuce that has ariſen in this Houſe: They may follow your Lordſhips in their Differences, but few of them know how to imitate you in Temper and Moderation. This is the Cauſe that Differences in Opinion, about Matters of a public Nature, often create Diviſions among the People without Doors; and thoſe who are diſaffected to his Majeſty's Perſon and Government, always endeavour to nurſe theſe Diviſions up into Heats and Animoſities, and too often ſucceed in their Attempts. Whatever is ſaid, therefore, in his Majeſty's Speech from the Throne, whatever may be ſaid in your Addreſs, about Diviſions, Heats or Animoſities, can relate only to the People without Doors: It can no Way relate to your Lordſhips, and conſequently no Lord in this Houſe can have Reaſon to think himſelf reflected on by any ſuch Expreſſion, either in his Majeſty's Speech, or in our Addreſs.

'But ſuppoſe, my Lords, there never had been, nor were now, any ſuch Thing as Diviſions, Heats or Animoſities in the Nation, yet, as ſuch Misfortunes are too frequent in every free Country, it was right in his Majeſty to caution us againſt them. It was a moſt ſeaſonable Advice upon the breaking out of a War, which may be heavy, dangerous, and tedious, tho' it has at preſent the Appearance of not being ſo. The noble Lord that ſpoke laſt, expreſſed a great Regard for the late King *William*. I ſhall readily join with him in teſtifying my Eſteem for that great Prince; and therefore, I muſt approve of his Majeſty's giving us a Caution at this Juncture againſt Heats and Animoſities, becauſe King *William* did the ſame upon a like Occaſion. That Prince, in his laſt Speech to his Parliament, when War againſt *France* and *Spain*

Ann. 13 Geo. II. 1739. was reſolved on, tho' not then declared, recommended it particularly to his Parliament to avoid all manner of Diſputes and Differences, and to lay aſide thoſe unhappy, fatal Animoſities, which divided and weakened this Nation. For this Reaſon, if the Example of King *William* can be of any Weight, and I muſt think it ought, we muſt approve of the Advice his Majeſty has given us upon this Occaſion; and if we approve of it, we ought to ſay ſomething in return.

'In this, my Lords, his Majeſty has done no more than follow the Example of King *William*; and as he equals that Prince in many other Virtues, ſo he equals him in a true Regard for the Glory and Happineſs of his Kingdoms, which, I am convinced, will be manifeſted in a prudent and vigorous Proſecution of the preſent War. King *William*, in my Opinion, and, I believe, in the Opinion of every Man that hears me, judged right when he ſuppoſed that the *Indies* was the proper Place for carrying on a War againſt *Spain*. His preſent Majeſty we may ſuppoſe, from what he ſays in his Speech, to be of the ſame Opinion. He has told us, that he has augmented his Forces by Sea and Land, as the neceſſary Means of diſtreſſing and annoying our Enemies in the moſt ſenſible Parts, by which he certainly means the *Indies*; and, I believe, no Man ſuppoſes that we ought to exhauſt our Strength in attacking any of their Dominions in *Europe*. We may therefore ſuppoſe, that his Majeſty will certainly puſh the War againſt *Spain* with the greateſt Vigour in the *Indies*; and if he had Occaſion for it, he would as certainly make Stipulations in every Alliance he enters into, for our keeping Poſſeſſion of the Conqueſts we may make in that Part of the World. It was neceſſary for King *William* to make ſuch a Stipulation in the Alliance he at that time concluded with the Emperor, becauſe, by that Alliance, the Dominions of *Spain* were to be given to a Branch of the Houſe of *Auſtria*. But as his preſent Majeſty has no ſuch Deſign, he has no Occaſion for any ſuch Stipulation. If we now make any Conqueſts in that Part of the World, as I hope we ſhall, no Ally we can have in the preſent War, will have a Right to prevent our keeping Poſſeſſion of what we conquer: Whereas, by the Alliance we then entered into, the Emperor would have had a Right to prevent it, if it had not been for that Stipulation.

'I do not ſee, my Lords, how any of our former Meaſures can be properly brought under our Conſideration in this Debate. I wiſh we could all forget our Differences about paſt Meaſures, and heartily unite in ſuch Meaſures for the time to come, as may redound to the Glory and Advantage of our Country. But as the noble Lord who ſpoke laſt, was

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pleaſed to throw out ſome Things that may be look'd on as Reflections upon our paſt Meaſures, I think it incumbent upon me, conſidering the Poſt in which I have the Honour to ſerve his Majeſty, to ſay ſomething in their Juſtification. I have approved of our public Meaſures, my Lords, for ſeveral Years paſt: I ſtill approve of them: Nay, I ſo much approve of them, that if any one of them had been otherwiſe than it was, I am convinced, I ſhould have diſapproved of it. The noble Lord has found fault with ſeveral of our Meaſures: He has particularly, upon this Occaſion, found fault with our Negotiations for preventing a War, which, of all others, are, in my Opinion, the moſt juſtifiable. His Majeſty, out of his tender Regard to his People, was reſolved, if poſſible, to avoid a War: He endeavoured, as much as he could, to obtain Redreſs by peaceable Means. For this Purpoſe it was neceſſary to negotiate; and, from the ſame Motive, he continued to negotiate, as long as there were any Hopes of Succeſs. I hope the noble Lord would not have had us declare War before we demanded Redreſs; and we could not, in Juſtice, declare War, as long as we had Reaſon to believe our Demand would be complied with. Our Negotiation were not altogether fruitleſs: They procured a Convention, by which, if *Spain* had been ſincere, an open Rupture might have been avoided; for I muſt ſtill approve of that Convention: I muſt ſtill think, we acted prudently in agreeing to it. Reparation for our Damages was thereby expreſsly promiſed; and, if that Promiſe had been fulfilled, the other Articles in Diſpute might have been eaſily adjuſted. But when the Court of *Spain* refuſed to comply with what they ſo ſolemnly promiſed, then, and not till then, it became in vain to negotiate; and then his Majeſty, according to the Advice of his Parliament, reſolved upon forcible Means, for obtaining that, which he ſaw he could no longer expect to obtain by Negotiation.

'Trade, my Lords, is our chief Support: Even the noble Lord who ſpoke laſt, has acknowledged it to be ſo; therefore it is neceſſary for us to avoid War as much as poſſible; for our Trade muſt ſuffer by every War we can be engaged in. It muſt, of courſe, occaſion an entire Stop to our Trade with that Nation againſt which we happen to be engaged, and this breaks the Chain of the general Trade we carry on; for our Trade with every Nation depends, in ſome meaſure, upon our Trade with every other Nation where we carry on any Commerce. Beſides, our Trade muſt ſuffer in every Branch, by the Privateers of that Nation we are at War with; for it is impoſſible ſo to cover the Ocean with Cruiſers, as to prevent their ſending out Privateers; and, if they have

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any ſuch at Sea, our Merchant-Ships cannot proceed ſafely on their Voyage without Convoy; which is always a great Expence, and often occaſions a Diſappointment to the Merchant. To which I muſt add, that a War with *Spain* muſt always be more injurious to our Trade, than a War with any other Nation in *Europe*; becauſe of the great Trade our Merchants carry on in that Kingdom, either in their own, or in borrowed Names, and becauſe of that Country's lying ſo convenient for interrupting, by their Privateers, our Trade with *Portugal*, *Turkey*, *Italy*, *Africa*, and with our own Plantations in *America*.

'No Man therefore, my Lords, who conſiders theſe Things, can, in my Opinion, blame our endeavouring to avoid a War with *Spain*, by Means of a Negotiation. We were in the right to negotiate as long as we had the leaſt Hopes left of obtaining Satisfaction in that Way. If his Majeſty had plunged the Nation into a War, upon the firſt Inſult offered by *Spain*, I am convinced we ſhould then have had as much ſaid, and I am ſure with more Reaſon, againſt a raſh and precipitate War, as we have lately heard againſt long and tedious Negotiations. The Inconveniencies and Loſſes our Trade was expoſed to by a War, would have been ſet forth with great Vehemence: The Advantage of our Trade with *Spain*, would have been magnified to a high Degree; and the Prudence of waiting a more favourable Conjuncture for obtaining Redreſs from that Crown, might have been with Juſtice inſiſted on; becauſe, as it is the Intereſt of that Nation not to fall out with us, it was reaſonable to expect, that a Change of Meaſures at that Court, or a Change in their Adminiſtration, would have put an End to their injurious Treatment of us, and would have inclined them to give Ear to a friendly Accommodation.

'But, my Lords, as his Majeſty, like a tender Father, was loth to engage his People in a War, which muſt be fatal to ſome of them, and prejudicial to great Numbers; as he endeavoured to prevent a War by Negotiation, as long as there were any Hopes left of ſucceediug in that Way, thoſe who are reſolved to find fault with the Conduct of our public Affairs, (which, I am ſure, is not the Caſe with regard to any of your Lordſhips) have now nothing to ſay, but againſt our Negotiations, which have, indeed, at laſt failed of the wiſhed-for Succeſs; but this, I am ſure, no Man could foreſee. Before the End of *May* laſt, no Man could pretend to ſay, that this would be the Event. As ſoon as this happened to be the Caſe, his Majeſty began to prepare for War, and took the firſt Opportunity to commence Hoſtilities; and we have, at leaſt, gained this Advantage from our Negotiations, that

that all the Powers of *Europe* muſt now ſee we have Juſtice of our Side, becauſe we did not offer to attack them, till they had broke through one of the moſt ſolemn and explicit Stipulations that one Nation can make with another. The others Powers of *Europe* could not eaſily, or perhaps would not be at the Pains to underſtand the Diſputes between the *Spaniards* and us about ſearching our Ships on the Seas, or about our reſpective Rights and Limits on the Continent, or in the Iſlands of *America*; but every Power in *Europe* muſt underſtand, and muſt look on their refuſing to pay the 95,000 *l.* ſtipulated by the Convention, as an open and notorious Violation of Faith. Ann. 13 Geo. II. 1739.

'His Majeſty's Declaration of War has, 'tis true, put an End to thoſe Clamours that were raiſed againſt our peaceable Negotiations; but I am afraid, my Lords, it has not put an End to our Diviſions. Thoſe who in Time of Peace cried out for War, cannot certainly find fault with the Declaration of War. This would render them ridiculous; but I am afraid the ſame Spirit that prompted them to find fault with our peaceable Negotiations, will prompt them to find fault with our warlike Operations; and the very Nature of the Thing muſt furniſh them with a greater Abundance of Materials for Complaint. In Time of War ſome croſs Accidents muſt happen: The beſt concerted Schemes may fail of Succeſs: The former will be aſcribed, by the Malicious, to want of Care, and the latter to want of Conduct. The noble Lord who ſpoke laſt, has indeed, with his uſual Candour, declared, that if the Plan be right, he will not find fault with the Event, therefore, I do not queſtion our having his Approbation in every Step of our future Conduct; and as we have Juſtice on our Side, and may conſequently expect the Protection of Divine Providence, I hope the moſt malicious will have but very little room to find Fault. We have already met with ſome Succeſs; which, in all Probability, will ſoon be followed by others. We have failed in no Attempt but one, and that was ſo viſibly occaſioned by contrary Winds and Storms, that no Man can have the Aſſurance to impute it to any Defect in our Conduct. At the ſame Time, ſo great Care has been taken to provide for our Safety at home, and for the Protection of our Dominions and Trade abroad, that we are in no great Danger of being attack'd in any Part of our Dominions; and conſidering the extenſive Trade we carry on, and the vaſt Number of Ships our Merchants have at Sea, ſo few of them have fallen into the Hands of our Enemies, and all this has been done with ſo much Prudence and Oeconomy, that the moſt fertile Malice cannot, I think, invent an Objection againſt our Conduct ſince the Commencement of the War.

Ann. 13 Geo. II. 1739.

'I ſhall join with the noble Lord in ſaying, that it is our Buſineſs to make this, as well as every other War we engage in, as ſhort as poſſible, and, I hope, the War we are now engaged in will not be of any long Duration. It cannot continue long, if *Spain* gets no Aſſiſtance from any other Power in *Europe*. We have already provided, I hope ſufficiently provided, for our Defence, which was certainly the firſt Thing neceſſary. We are now to provide for attacking the Enemy; and I make no doubt but that as ſoon as the Seaſon will permit, we ſhall be able to attack them in the proper Place, with ſuch a Force as they cannot reſiſt. Our Negotiations to prevent a War were, perhaps, more tedious than was agreeable to ſome People amongſt us; but now the War is begun, I hope we ſhall be able to puſh it with ſuch Vigour and Succeſs, as muſt produce an honourable Peace, before any Man in the Kingdom can have Time to be tired of the War. As his Majeſty has ſecured us, by an Augmentation of his Land-Forces, againſt the Deſigns of our Enemies at home, and, by covering the Seas with his Squadrons, againſt an Attack from our Enemies abroad, the *Spaniards* muſt ſoon find themſelves diſappointed in the Hopes they had, of reaping Advantage from our Diviſions; and being deprived of theſe Hopes, when they ſee that we are ready to attack them in the moſt ſenſible Part, and with an irreſiſtible Force, they will probably ſubmit to reaſonable Terms. They muſt ſubmit, unleſs they are ſure of having the Aid of a neighbouring Power, for preventing that Vengeance which will ſoon be ready to burſt upon them.

My Lords, the noble Lord that ſpoke laſt has allowed, that there is ſome Danger of *France*'s declaring againſt us in the preſent War. He has allowed that *France* may ſacrifice her Trade to other Views. I do not know that we are as yet in any Danger from that Quarter. I hope we are not; but no Man can tell how ſoon we may; for, notwithſtanding the great Age of the preſent prime Miniſter of that Kingdom, notwithſtanding his preſent peaceable Diſpoſition, we cannot entirely truſt to it; We know he can alter that Diſpoſition, when he finds it proper or neceſſary ſo to do; We know the Animoſity that has ſo long ſubſiſted between that Nation and this: We know the Regard the People of *France* have for the Royal Family of *Spain*; and therefore the prime Miniſter of that Kingdom, notwithſtanding the arbitrary Form of their Government, may, like the Miniſters in other Countries, be forced to chime in with the general Inclinations, perhaps the general Whim, of his Countrymen. Many Things may induce the *French* to alter their preſent Meaſures, and as their King is abſolute Maſter within his Dominions, the Effects

fects of that Alteration may, and probably will be instanta- Ann. 13 Geo. III.
neous, and may be fatal to us, if we are not fully provided 1739.
against them. On this Account it is prudent, it is necessary for us to make more formidable Preparations, and to put ourselves to a greater Expence, than might, perhaps, be necessary, if we were sure of having none but the *Spaniards* to deal with.

'But this, my Lords, is far from being the Case. We cannot depend upon the Councils of any foreign Nation. The only sure Method we have for preventing an Alteration in their Councils with Regard to us, is to prevent its being in their Power to hurt us, by providing sufficiently for our Defence at Land, as well as by Sea; and as the Court of *France* is nearly allied with that of *Spain*, as the Coast of *France* lies more convenient for invading this Kingdom, than any other Coast in *Europe*, we ought, in the present War, to provide against a sudden Attack from thence, as well as against an Attack from *Spain*. It is a little, I may say, diverting to observe the different Opinions of some without Doors at different Times. It is not many Years since the Power of *France* was represented in a terrible Light: We were but a few Years ago told, that the Power of *France* was become dangerous to the Liberties of *Europe*; and from thence an Argument was drawn for our engaging against that Crown in a War, in which we had no immediate Concern. I am sure the Power of *France* is no way diminished since that Time, nor can I think, that the Power of this Nation is any way increased; and yet now, we are told, that the Power of *France* is so inconsiderable, that even this Nation alone has nothing to fear from the united Power of *France* and *Spain*: And that *France*, by joining with *Spain* in the present War, may hurt herself, but cannot hurt us. This Way of talking is something strange; but I am no way surprized at it. We were then in Peace, and our Administration were against involving their Country in War, unless *France* should push her Conquests so far, as to endanger the Liberties of *Europe*: We are now in War, and our Administration think it necessary to provide against *France*'s taking a Share in the War against us. This is the sole Cause of this Difference in Opinion, with regard to the Power of *France*. Our Administration have, for good Reasons, altered their Measures, and therefore those who oppose them must, without any Reason, alter their Opinions.

'I am far from accusing any Lord in this House of such a Conduct. Your Lordships always form your Opinions upon Reasons that appear at least to you substantial; but this, my Lords, cannot be said of many without Doors. The chief

Ann. 13 Geo. II. 1739.

Reaſon for the Opinion they form, often ſeems to be, becauſe the Adminiſtration happens to be of another; and ſuch a Conduct muſt proceed from a Spirit of Diviſion and Animoſity: I am ſure, it does not proceed from a Spirit that can, in any Senſe, be called rational. It muſt from thence appear, that there is a Spirit of Diſſenſion and Animoſity reigning without Doors; and thoſe who are diſaffected, will always endeavour to cultivate and improve that Spirit as much as they can, eſpecially at the Beginning of a foreign War. This made it neceſſary for his Majeſty, upon the preſent Occaſion, to caution us againſt Heats and Animoſities, and for the ſame Reaſon we ought to pay a due Reſpect to that Caution, not only in our Addreſs, but alſo in our future Conduct. This ought to prevail with us, to be as unanimous as poſſible in all our future Reſolutions; for, tho' no Difference of Opinion ever ariſes to any Heat or Animoſity in this Houſe, yet it adds Fewel to thoſe Heats and Animoſities that are induſtriouſly fomented by the Diſaffected without Doors; and, as it cannot be ſuppoſed, that any of your Lordſhips are in the leaſt concerned in thoſe Diviſions, Heats, or Animoſities that prevail without Doors, therefore, I hope, the noble Lord's Motion will be unanimouſly agreed to without any Amendment.'

Duke of *Bedford*.

Duke of *Bedford*.

'My Lords, As I have not the Honour to have any Share in his Majeſty's Councils, I cannot pretend to ſay, what is meant by the Diviſions, Heats, and Animoſities mentioned in his Majeſty's Speech from the Throne; but as that Speech, and all ſuch Speeches are directed to the two Houſes of Parliament, the moſt obvious, and, I think, the moſt natural Conſtruction that can be put upon it is, That his Majeſty means the Diviſions, Heats, and Animoſities that have ariſen in one or other Houſe of Parliament. This is the Conſtruction, I am convinced, that will be put upon it by our People at home, and by our Friends as well as Enemies abroad; and as his Majeſty can know nothing of theſe Diviſions, Heats, or Animoſities, but by Information, I am ſure, thoſe that have told him of there being any ſuch Thing in either Houſe, have done no Service to their King or Country. No Man can, with the leaſt Shadow of Truth, ſay, there has been any ſuch Thing in Parliament; and therefore I muſt think, that thoſe who have given his Majeſty ſuch a falſe Information, if they are not guilty of Treaſon, they are at leaſt guilty of a very high Miſdemeanor. It is a Miſrepreſenting of the Parliament to the King, which may be attended with Conſequences fatal to the Nation, and

and therefore muſt be a Crime of a moſt heinous Nature. What then ſhall we be guilty of, if by any Words in our Addreſs, we confirm this Miſrepreſentation that has been made of us to his Majeſty? Will it not make his Majeſty, as well as every Perſon without Doors, both Abroad and at Home, be convinced, that there have been great Heats and Animoſities in Parliament, and that thoſe Heats and Animoſities are far from being allayed or alleviated? What an Encouragement will this be to our Enemies, what a Diſconſolation to our Friends?

'Surely every Lord that hears me muſt be conſcious, that there have been no Heats or Animoſities in this Houſe, and I have heard of none in the other. Even with Regard to the People without Doors, I cannot think, my Lords, there is the leaſt Ground for ſaying, there is any Diviſion or Animoſity among them. I am ſure it cannot be ſaid, there is any Number of Men in the Nation, that diſapprove of the War his Majeſty has declared againſt *Spain*. I have not lately been in many Parts of the Country, but here in *London* there never was a Meaſure more univerſally approved of by all Ranks and Degrees of Men. The People have ſhewn their Approbation by every Method they could think of; and I do not think, that a Meaſure ſo highly approved of in and about the City of *London*, can meet with any Cenſure or Oppoſition in the Country.

'What Circumſtances the Nation was in, towards the latter End of King *William*'s Reign, I cannot at preſent, my Lords, take upon me fully to explain; but I remember two or three Circumſtances, which make our Caſe very different now, from what it was then. But three or four Months before that Prince made the Speech to his Parliament, which the noble Duke has been pleaſed to mention, the late unfortunate King *James* having died at *St. Germains* in *France*, his Son was publicly proclaimed King of *England*, *Scotland*, and *Ireland*, at *St. Germains*, and ſolemnly and openly acknowledged as ſuch by the King of *France*, which was a good Reaſon for King *William*'s admoniſhing his Parliament to beware of Diviſions and Animoſities, and a Reaſon which does not now ſubſiſt. This, I ſay, was a good Reaſon; but there was ſtill a much ſtronger. In the very Seſſion of Parliament immediately preceding that which he opened with the Speech the noble Duke has mentioned, there had been great Conteſts, and great Heats and Animoſities in both Houſes: Several noble Lords who were the King's chief Miniſters and Favourites, and who had done ſignal Services to their Country, had been impeached by the Houſe of Commons, which not only raiſed Heats and Animoſities in

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each Houſe, but occaſioned a ſort of Breach between the two; and was, perhaps, the Occaſion of diſſolving that Parliament about the End of the enſuing Summer. To this I may add, that even as to the War then about to be entered into, there were great Diviſions in the Nation; ſome being for entering into it as Auxiliaries only, and ſome for entering into it as Principals: Nay, the Party for the former of theſe two Methods was ſo numerous and powerful, that had it not been for the Indignity put upon theſe Kingdoms by the *French* King, as I have juſt mentioned, the Nation could hardly have been prevailed on to enter into the War as Principals.

'King *William*, therefore, had ſome Reaſon to caution his Parliament, being a new one, which he had no Experience of, againſt thoſe Heats and Animoſities that had actually happened in the former; but ſurely, my Lords, no ſuch Reaſon exiſts at preſent. His Majeſty has had ſeveral Years Experience of this Parliament: There have been no Heats or Animoſities in Parliament: There has been no Animoſity among the People, but a very general one againſt *Spain*, and as general a one againſt the Tameneſs with which our Miniſters bore the Inſults of that Nation. The latter is now put an End to by his Majeſty's Declaration of War: The former, I hope, will continue till we have fully revenged our ſelves of our Enemies. By Diviſions, Heats and Animoſities, nothing can be meant but the Oppoſition which the People in general, and many Members of both Houſes of Parliament, have ſhewn, and the Indignation with which they have treated the late peaceful, negotiating Humour of our Miniſters; and to call that Oppoſition a Diviſion, or to complain of its being carried on with Heat or Animoſity, is throwing an unjuſt Reflection upon the whole Nation, and upon many Members of both Houſes, merely for the ſake of making a Compliment to our Miniſters, which, I hope, this Houſe will give no Countenance to; and therefore I think we ought to avoid ſaying any Thing in our Addreſs about Diviſions, Heats or Animoſities. I am ſure, if the noble Lord intends to have his Motion unanimouſly agreed to, he will take the Advice that has been offered, and leave out of his Motion, every one of thoſe Expreſſions that have been objected to.'

Lord *Talbot*.

Lord *Talbot*.

'My Lords, That there have been Heats and Animoſities amongſt us I ſhall admit, but they are now wiſely put an End to; and I ſhall beg Leave to ſhew, how they were occaſioned, and in what manner they have been put an End to.

If

If we look back upon the Conduct of our public Affairs for almoſt theſe twenty Years, we may eaſily find the Cauſe of all our Heats and Animoſities: We may juſtly admire, that they have not been more violent, and more fatal to thoſe that were the Cauſe of them. We have been, during that long Period, in what ſome amongſt us are pleaſed to call a State of Tranquillity; but that Tranquillity has been attended with all the Expence, and almoſt all the Misfortunes of a real War, without a Chance of reaping any of that Glory, or any of thoſe Advantages, that may be reaped by open Hoſtilities. We have been negotiating when we ought to have been fighting, and we have been concluding Treaties with thoſe, againſt whom we ought to have declared War; and to render thoſe Negotiations effectual, or to enforce the Obſervance of thoſe Treaties, we have been keeping up expenſive Armies, that have raiſed Terrors among our own People at home, becauſe they could not gueſs for what they were deſigned, and fitting out expenſive Squadrons, that have raiſed no Terrors among our Enemies abroad, becauſe, I ſuppoſe, they very well knew for what they were deſigned. Ann. 13 Geo. II. 1739.

'This, my Lords, is a Summary of our Conduct for almoſt theſe twenty Years paſt; and ſuch a Conduct could not, in my Opinion, fail of begetting Heats and Animoſities at home, as well as Contempt and Infamy abroad; but to make this the more evidently appear, I muſt examine into ſome of the particular Steps of our Conduct, and for that Purpoſe ſhall begin with the famous Treaty of *Hanover*; for, I think, I need go no farther back at preſent. In the Beginning of the Year 1725, the Courts of *Vienna* and *Madrid* thought fit, by themſelves, to accommodate all the Differences that ſubſiſted between them, and to conclude Treaties of Peace, Commerce and Guaranty, in which there was not any one Article contrary to the Treaties that either of them had made with us. What Offence we could take at this Step in either of theſe Courts, I do not know: Nay, ſuppoſe it had been true, that they had concluded ſuch a private Treaty as was repreſented, we had no Occaſion for taking any extraordinary Meaſures againſt it; becauſe the *Emperor* having no naval Force, he could give *Spain* no Aſſiſtance againſt us. However, we allowed ourſelves to be ſo much alarmed, that the ſame Year we concluded at *Hanover* an Alliance with *France*, which, I am ſure, is the laſt Nation in *Europe* we ought to enter into an Alliance with; and the whole Nation was terrified with an Invaſion in favour of the *Pretender*, tho' every one knew, that the *Emperor* and *Spain*, joined together, could not fit out ſuch a naval Force,

as

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as would have been equal to that which we can, at any Time, fit out upon a Week's Notice.

'But we did not reſt here, my Lords: We did not ſatisfy ourſelves with providing, by ſuch an Alliance, for our Defence: The very next Year, we raiſed Armies and fitted out Squadrons, as if we had been to attack thoſe whom we thus repreſented to be our Enemies. We ſent one powerful Squadron to the *Baltick*, another to the Coaſts of *Spain*, in *Europe*, and a third to their Coaſts in *America*. At the ſame Time we augmented our Army to above 26,000 Men; and the whole Nation expected that our Enemies would have been made to ſuffer ſeverely for the ridiculous Deſigns they had formed againſt us. But our Armies and Squadrons produced no other Effect than to load our own People with Expences, and to make *Spain*, begin actual Hoſtilities againſt us, by ſeizing all out Merchants Effects they could find in their Dominions, by fitting out Privateers, and taking all our trading Ships they could meet with at Sea, and by laying Siege to *Gibraltar*.

Tho' we had at firſt, my Lords, no Provocation for attacking *Spain*, yet theſe Hoſtilities were, ſurely, a good Reaſon for declaring War againſt them; and, by the Treaties we made, and the Subſidies we engaged to pay, it look'd as if we really deſign'd to do ſo; for after near a Year's Negotiation, we got the *Dutch* to accede to the Treaty of *Hanover*, under many Conditions and Reſtrictions: In about 18 Months we obtained a Promiſe from the *Landgrave* of *Heſſe*, to keep in Readineſs for our Service 12,000 Men, for which we engaged to pay him 125000 *l. Sterling*, which was continued to him for ſeveral Years, tho' his Troops were never employed in our Service: About the ſame Time, we obtained the Acceſſion of *Sweden* to the *Hanover* Treaty, under Condition of paying them a yearly Subſidy of 50,000 *l.* for three Years certain, one Half of which was to be paid by *France*: In about 19 Months we obtained the Acceſſion of *Denmark*, under Condition of paying them a large Subſidy for four Years certain, which was all to have been paid by *France*, tho' we afterwards thought ourſelves obliged to pay a Part of it: And upon the 25th of *November*, 1727, we obtained the Alliance and Guaranty of the Duke of *Wolfenbuttle*, upon Condition of paying him 25,000 *l.* yearly, for four Years certain. By all theſe Preparations, Negotiations, and Alliances, I ſay, my Lords, it look'd as if we had, at that Time, really a Deſign to declare War againſt *Spain*, and to revenge ourſelves fully, for all the Inſults they had put upon the Nation; but this was far from being the Caſe: Our Armies

Armies, as well thoſe at home, as thoſe we paid ſo dear for abroad, remained quiet in their reſpective native Countries, and our Squadrons continued inactive upon the Coaſts of *Spain*, at the very Time they were beſieging *Gibraltar*, and making Prize of every one of our Merchants Ships they could meet with at Sea. Inſtead of declaring War, or committing Hoſtilities, againſt *Spain*, we were treating and negotiating with them, or at leaſt with the *Emperor* on their Behalf; for the Court of *Spain* itſelf carried it at that Time ſo high, and held us in ſuch Conrempt, that they would not ſo much as treat with us; and in *May*, 1737, preliminary Articles were concluded at *Paris*, between the *Hanover* Allies and the Emperor, by which we promiſed, that all Hoſtilities ſhould on our Side immediately ceaſe, tho' *Spain* was no contracting Party in this preliminary Treaty; which Promiſe we religiouſly kept, tho' *Spain* refuſed to agree to the Preliminaries, and continued Hoſtilities for near a Year longer, when by the Intervention of the *French* Ambaſſador at *Madrid*, we obtained from *Spain* a Convention for the Execution of thoſe Preliminaries, in purſuance of which, a Congreſs was appointed; but this Congreſs was rendered abortive, by our joining in a new Alliance with *France* and *Spain* againſt the *Emperor*, by the famous Treaty of *Seville*.

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'By this Treaty, my Lords, we had got of our Side, almoſt all the Powers of *Europe* that have any naval Force, ſo that we could have no Pretence for fitting out a Squadron with any warlike Intention; but this did not prevent our putting ourſelves to the Expence of fitting out one. In order to pay a Compliment to the *Spaniſh* Court, we ſent a Squadron of above twenty Men of War, all Capital Ships, to the *Mediterranean*, in the Year 1731, to conduct the Infant Don *Carlos* to *Italy*; and this we did, when they were erecting Forts and Batteries againſt our Town and Bay of *Gibraltar*, and commiting many Depredations upon our Merchants in the *Weſt-Indies*; which we took no Notice of, tho' ſtrong Repreſentations had been made, by our People at *Gibraltar*, againſt the former, and an Application had been made to Parliament, by our Merchants, againſt the latter. Nay, tho' the Court of *Spain* had evaded making that Reparation for paſt Injuries, which they had promiſed by the Treaty of *Seville*, we took no effectual Notice of it. We contented ourſelves with ſending Commiſſaries to wrangle and diſpute about the Injuries we had ſuffered before that Treaty, and with ordering our Miniſter at that Court to preſent long, perplexed Memorials, againſt thoſe we ſuffered afterwards.

'This,

Ann. 13 Geo. II. 1739.

'This, my Lords, was the State of Affairs between *Spain* and us in the Year 1733, when they attacked our Ally, the *Emperor*, in *Italy*, with thoſe very Troops which we had aſſiſted them to carry thither, and at a Time when, from the many Evaſions they had before made uſe of, we had no Reaſon to expect any Satisfaction from them by peaceable Means. If we were, at that Time, under no Obligation, or if we had no Inclination to aſſiſt the *Emperor*, yet ſurely our own Intereſt ſhould have inclined us to take that Opportunity of declaring War againſt *Spain*, if they refuſed to give us the moſt ample Reparation for our former Loſſes, and abſolute Security againſt our being expoſed to any ſuch for the future; but inſtead of this, our Commiſſaries and Miniſter continued ſoliciting at the Court of *Spain* for that which we might, with great Juſtice, and then, probably, with great Succeſs, have inſiſted peremptorily upon; and the Emperor, for want of that Aſſiſtance which he thought he was, by Treaties, entitled to from his Allies, was at laſt obliged to ſubmit to thoſe Terms which were preſcribed to him by his Enemies.

'Whilſt the War continued, my Lords, the *Spaniards*, 'tis true, put a ſort of Stop to their Depredations in the *Weſt-Indies*, and entertained our Miniſters with ſome Hopes of a final Adjuſtment; but no ſooner was the War over, than, as might have been eaſily foreſeen, they began to renew their Depredations with freſh Vigour in the *Weſt-Indies*, and, I ſuppoſe, they plainly told us, that they would give no farther Satisfaction than they had done, with regard to any of our Loſſes ſuſtained ſince the Treaty of *Seville*; for I do not find that it was ever afterwards ſeriouſly inſiſted on: I am ſure, the Sum ſtipulated by the late Convention was ſo far from being any Satisfaction for thoſe Loſſes, that it was not near equal to the Loſſes our Merchants have ſuſtained, by Depredations committed ſince the concluding of that Treaty.

'Thus, my Lords, we loſt all the Advantages we might have reaped from the War between *Spain* and the Emperor; and, I am afraid, we loſt a great deal of our Character into the Bargain: But tho' we let ſlip that Opportunity for vindicating the Honour, and ſecuring the Trade of the Nation, we took care to lay hold of it for putting the Nation to an extraordinary Expence, by raiſing Armies, fitting out Squadrons, forming Alliances, and engaging to pay Subſidies. Soon after the War broke out, we encreaſed our Land Force to near 27,000 Men; and for augmenting our Naval Force, we encreaſed the Number of Seamen, employed in his Majeſty's Service, to 30,000: We ſent a Miniſter extraordinary to *Holland*, tho' we knew that the *States-General* had be-

fore concluded with *France* a Treaty of Neutrality; and in *September* 1734, we concluded a Treaty with the King of *Denmark*, by which we engaged to pay him an annual Subſidy of upwards of 56,000 *Sterling* for three Years certain. From theſe extraordinary Warlike Preparations, and moſt extraordinary Expences, the People ſuppoſed that we were to exert ourſelves in the moſt vigorous manner, for retrieving an ancient Ally from the Diſtreſs he was then in, for procuring Juſtice to our injured Merchants, and for vindicating the Honour, and ſecuring the Trade of the Nation; but the Emperor, it ſeems, knew better, and therefore he ſubmitted to the hard Terms that were offered him by his Enemies, which threw the Affairs of *Europe* into a Situation, perhaps, the moſt unfortunate that they ever were in for this Nation. Ann. 13 Geo. II. 1739.

'Upon this, my Lords, we diſbanded the additional Forces we had raiſed both by Sea and Land, and ſeemed to think we had nothing more to do; for tho' the Depredadations of the *Spaniards*, upon our Merchants, and their Inſults upon the Nation, in the *Weſt-Indies*, were now become more frequent, and more open, than they had ever been before, it ſeemed to give us no real Concern. We took no Step for redreſſing theſe Grievances, or for protecting our Trade, till an Application to Parliament by our Merchants, two Years ago, made it neceſſary for ſome Perſons to take a little more Notice of their juſt Complaints. We then again began to make ſome Warlike Preparations: We raiſed an additional Number of 10,000 Seamen; and we ſent one Squadron to the *Weſt-Indies*, and another to the *Mediterranean*. But ſtill we truſted to our favourite, tho', by Experience, ſo often found to be ineffectual, Methods of Negotiation: Our Squadrons did nothing, but our Negotiators, 'tis true, did ſomething: They procured us that famous Convention which we had before us laſt Seſſion of Parliament, and which we have now found to be as frivolous, with regard to this Nation at leaſt, as the other Treaties we had before entered into with *Spain*; and thus all our Negotiations and Treaties have at laſt ended in a War, perhaps the moſt dangerous, I am ſure moſt unſeaſonable, that this Nation was ever engaged in.

'I ſhall now, my Lords, give you a ſhort Account of the Charge the Nation has been put to, by theſe warlike Preparations, and pacific Meaſures; but, in order to ſet this Charge in the cleareſt Light, I muſt obſerve, that, if we kept no greater Number of regular Troops, nor any greater Number of Seamen, in our Pay, than are neceſſary for our Security in time of Peace, I am convinced, the annual public Expence could never amount to above 1,500,000 *l.* ſo that,

Ann. 13 Geo. II. 1739.

by Means of a Land-Tax of 2 *s.* in the Pound, and the uſual Malt-Tax, inſtead of contracting a new Debt yearly, which has been our Caſe for many Years, we ſhould have been able to provide annually for the Service of the Year, and to pay off above 100,000 *l.* yearly of our old Debt; and if all uſeleſs Poſts, and uſeleſs or extravagant Salaries or Perquiſites, had been enquired into, and aboliſhed or reduced, I am ſure it would have added a conſiderable Sum to our annual Savings. However, I ſhall wave taking Notice of this laſt Article of Frugality, and ſtate the neceſſary annual Expence of the Nation at 1,500,000 *l.* in order, from thence, to compute the Supra-Charge that our Warlike Preparations, and unneceſſary Squadrons and Armies have coſt us.

'Upon computing the Sums granted every Year by Parliament, for the Service of the enſuing Year, I find, my Lords, that the firſt Seſſion, after the famous Treaty of *Hanover*, granted, for the Service of the Year 1726, 1,939,285 *l.* but this was not all that was expended in that Year; for, by a Vote of Credit and Confidence paſſed near the End of that Seſſion, his Majeſty was empowered to augment his Forces both by Land and Sea; and to take ſuch Meaſures as the Exigency of Affairs might require; which Power was accordingly made uſe of, and therefore, by the next Seſſion, there was granted, for the Service of the Year 1727, and for Deficiencies in the former Year 2,980,801 *l.* For the Service of the Year 1728, there was granted 3,123,449 *l.* For 1729, 3,087,859 *l.* For 1730, 2,166,400 *l.* For 1731, 2,060,232 *l.* For 1732, (the Tranquillity of *Europe* being then, as ſome wiſe Politicians amongſt us judged, eſtabliſhed upon a laſting Foundation, tho' it was really upon a moſt precarious one, as ſoon after appeared) 1,743,359 *l.* For 1733, (the War between *France* and its Allies of one Side, and the Emperor of the other, having broke out in that Year) 1,835,056 *l.* For 1734, 3,821,714 *l.* 1,200,000 *l.* of which was to be applied towards paying off ſo much of the Debt of the Navy, and 287,343 *l.* for the Deficiency of the preceding Year; but, as the War I have mentioned was then juſt broke out, and as we reſolved that this Nation ſhould have a Share in the Expence, tho' it was to have no Share in the War, this was far from being all that was expended that Year; for, by a Vote of Credit, agreed to about the End of the preceding Seſſion, his Majeſty was empowered to augment his Forces both by Sea and Land, and to take ſuch other Meaſures as the Exigency of Affairs might require, in Purſuance of which, the Augmentations were made, and the other Expences incurred, which I have before mentioned; and therefore, for the Service of the Year 1735, and the Deficiencies of the former

former Year, there was granted by Parliament the Sum of 3,070,129 *l.* For the Service of the Year 1736, 2,181,859 *l.* For the Service of the Year 1737, 1,952,725 *l.* and for the Year 1738, 2,356,719 *l.*

'In theſe Computations, my Lords, I have omitted all thoſe Sums that were granted for making good the Deficiencies of former Funds, and likewiſe all thoſe that were granted for paying off any Part of our Debt: I have reckoned nothing but what was granted for current Services, or for extraordinary Expences incurred in the preceding Years; and, from theſe Computations, it will appear, that the Grants for the Thirteen Years I have mentioned, amount in the whole to 32,319,587 *l. Sterling*. Whereas, if we had kept within 1,500,000 *l.* yearly, which we may always do in Time of Peace, the whole of our Expence for theſe Thirteen Years would have amounted to no more than 19,500,000 *l.* ſo that by keeping up Armies, paying Subſidies, and fitting out Squadrons, which we made no uſe of, nor had any Occaſion for, we had waſted very near Thirteen Millions, which, if it had been regularly and annually applied to its proper Uſe, would have paid off near Seventeen Millions of our public Debt; and ſuch a Payment would have been attended with this farther Advantage, that it would have enabled us, ſome Years ago, not only to have reduced the Intereſt upon the remaining public Debt, but alſo to have reduced the Intereſt of Money in general, to 3 *per Cent.* which would have made it much eaſier, than it is at preſent, for many Landed Gentlemen to pay the Taxes neceſſary for the annual Support of our Government.

'Conſidering the Situation we are now in; conſidering the Situation the Affairs of *Europe* are in; conſidering the Misfortunes one of our moſt ancient and beſt Allies has met with, and conſidering the Inſults this Nation has met with, and the many Depredations and Cruelties our Merchants and Seamen have been expoſed to; I believe I may, I do, my Lords, with Confidence appeal to every Man that hears me, whether we have reaped one Shilling's Worth of Advantage by the numerous Armies we have kept np, the powerful Squadrons we have fitted out, the great Subſidies we have paid, and the many Negotiations and Treaties we have carried on and concluded ſince the memorable Year 1721? Shall we then be ſurprized, that there have been Heats and Animoſities amongſt us? Can we be at a Loſs in aſſigning the Cauſe? Could it be ſuppoſed, that a brave, and a free People would bear, with Patience, being expoſed, by pacific Meaſures, to the Inſults and Contempt of their Enemies; and

Ann. 13 Geo. II. 1739.

that at a Time when they were loaded with an Expence, that might have made them the Terror of their Foes?

'It is evident, my Lords, that all the Heats and Animoſities that have been amongſt us of late Years, have ſprung from thoſe pacific Counſels, that have made us tamely ſubmit to ſo many Inſults, and thoſe warlike Appearances, that have ſubjected us to ſo great an Expence; and, when we conſider from whence our Heats and Animoſities have proceeded, we may eaſily ſee how they have been put an End to. His Majeſty's Declaration of War has put an effectual End to them; and, if the War be carried on in a warlike Manner, if the Naval and Land-Force of this Nation be wiſely and vigorouſly employed, I dare anſwer for it, no Heats or Animoſities will ariſe amongſt us whilſt it laſts. But, if the ſame negotiating Humour, which has ſo long prevented our declaring War, notwithſtanding the many juſt Provocations, and the many good Opportunities we have had for it, ſhould now prevent our puſhing it with Vigour, as the Conſequences will be more fatal, I am afraid the Heats and Animoſities that muſt enſue, will be much more violent.

'For this Reaſon, my Lords, as his Majeſty's Speech from the Throne, is always, in this Houſe, underſtood to be a Speech from the Miniſters, and as our Addreſs by way of Anſwer to that Speech, muſt conſequently be ſuppoſed to be an Anſwer made to the Miniſters; therefore, if we make any mention of Heats or Animoſities, we ought to tell them, that as there are now no Heats or Animoſities amongſt us, we hope they will take care to prevent any ſuch for the future, by a vigorous Proſecution of the War. This ſhould be the Amendment I would propoſe, if I could expect that my Advice would be taken; but, as this, I cannot expect, and as ſome Lords may think, that this would be a more free Way of Addreſſing our Soverign, than has been uſual of late Years, tho' not more free than has been practiſed by our Anceſtors, I ſhall content myſelf with being for the Amendment propoſed; and I hope the noble Lord, who made the Motion, will endeavour as much as he can to prevent Prejudices or Animoſities having a Share in our Deliberations, by agreeing to leave theſe two ugly Words out of his Motion.

Earl of *Cheſterfield.*

The Earl of *Cheſterfield.*

'My Lords, upon ſuch a ſolemn and important Occaſion, I am ſorry to find that a Diſpute ſhould ariſe, or the Unanimity of this Houſe be diſturbed, on account of a few Words or Expreſſions, which no Lord will pretend to be of any Importance in

in themſelves, either to the Crown or the Nation, whatever they may be to the Miniſter: and therefore, when they were taken Notice of, and objected to by my noble Friend near me, I expected that the noble Lord, who, I ſuppoſed, had accidentally made them a Part of his Motion, would have ſo far contributed to that cordial Union which he was pleaſed to recommend, as to ſtand up and agree to the Amendment propoſed. But when I found thoſe Words and Expreſſions inſiſted on, not only by him, but by other Lords, who may be ſuppoſed to have had ſome Hand in adviſing and framing his Majeſty's Speech from the Throne, I then began to ſuſpect that thoſe Words had not dropt into the Motion by Accident; but that they had been inſerted with Deſign, to make this Houſe confirm a Repreſentation that has been made to his Majeſty, by ſome who are, perhaps too often, near his Perſon; and in this Light I muſt acknowledge, they are of the utmoſt Importance to the Crown, to the Nation, and above all, to the Honour and Dignity of this Houſe. Ann. 13 Geo. II. 1739.

'I know, my Lords, it has been of late Years a Cuſtom, to make the Addreſs of this Houſe a Sort of *Echo* to his Majeſty's Speech from the Throne; and, as *Echos* never fail to repeat the laſt Words of a Sentence, ſo it ſeems, we muſt never fail *echoing* back the laſt Paragraph of his Majeſty's Speech. This, I ſay, has been a Cuſtom for ſome Years paſt; but I cannot think that a religious Obſervance of this Cuſtom, is either conſiſtent with the Character we ought to preſerve, or neceſſary for ſhewing our Reſpect to our Sovereign. I am ſure, upon the preſent Occaſion, it will be a Failure in our Duty to the King, and an expoſing of ourſelves to the Cenſure at leaſt, if not to the Contempt, of the whole World.

'Can any one, with Juſtice, ſay, my Lords, that Prejudices, Heats, or Animoſities, have of late been intermix'd in our Deliberations? Can any one, with Juſtice, ſay, that there has lately been any Diviſion among the People of this Nation? I am really aſtoniſhed, how ſuch Words could creep into his Majeſty's Speech from the Throne. The Speech, 'tis true, is generally ſaid to be the Speech of the Miniſter; but I wonder what Miniſter dared to tell his Majeſty, that there have been, or ever were, any Heats or Animoſities in our Deliberations, or that there have lately been any Diviſions amongſt his People. I believe, there is no Aſſembly in the World, where Deliberations and Debates are carried on with more Decency and Calmneſs: I believe, the People of this Nation were never leſs divided in their Sentiments, than they have been of late Years. Therefore, if any one has of late

Ann. 13 Geo. II. 1739.

late preſumed to ſay to his Majeſty, that there were Heats or Animoſities in any of our Deliberations, or that there are Diviſions amongſt his People, it muſt be one of the groſſeſt Miſrepreſentations that was ever whiſpered into the Ear of any Sovereign Potentate; and ſhall we, by any Expreſſion in our Addreſs, give Credit to ſuch a Miſrepreſentation, and enter, as it were, into a Combination for putting an Impoſition upon our Prince, that muſt give him a bad Opinion, not only of his People, but alſo of this Aſſembly, of which we have the Honour to be Members. Such a Conduct, with regard to the People, would be moſt unjuſt; but with reſpect to ourſelves, it would be a ſort of *Felo de ſe*.

'The People of this Nation, my Lords, were never, I believe, ſo unanimous in any one Thing, as they have, for ſeveral Years, been in that of deſiring to have an Opportunity of revenging themſelves againſt the *Spaniards*. The only Diviſion, if it can be called ſo, that has of late appeared amongſt us, has been between the People of one Side, and a few of our Miniſters of the other. I ſay, my Lords, a few of our Miniſters; for, I will not do ſo much Injuſtice to the Adminiſtration, as to ſay, that all thoſe who have a Share in the Adminiſtration, are of that Party which has ſo long obſtinately withſtood the general Voice of their Country. I hope I may ſay, all thoſe that have a Share in our Adminiſtration: I hope our Adminiſtration conſiſts of a great Number of Perſons: I am ſure it ought, by our Conſtitution, to conſiſt of a great Number, that have no other Dependence upon one another, but that which reſults from their Duty to their Country, and their Affection to their Sovereign. If it be otherwiſe, I am ſorry for it, and glad I have not ſo much as the Character of having a Hand in it. But let it conſiſt of what Number it will: Let it be a ſole Corporation (a Term well known to the Reverend Bench) if the World pleaſe to think it ſo, I am ſure, it has had, with regard to its late pacific Meaſures, no Party among the People for this Dozen of Years paſt; and, if any one has endeavoured to make his Majeſty believe that it has, I am ſure the Parliament, and particularly this Houſe, ought to take a proper Method for undeceiving him; for while our Parliaments continue to be of any Uſe to the Nation, they will always take care that the King may ſafely reſort to them, as to the Fountain of Truth, in order to know the real Diſpoſition of his People, and the true Character of his Miniſters.

'This Diviſion, my Lords, between a few of our Miniſters, or one ſole Miniſter, and his immediate Dependents, of one Side, and the whole Body of the People of the other,

has

has been the only Diviſion that has appeared of late Years amongſt us; and, ſuch a Diviſion can in no Light be called a Diviſion among the People; for in this Country, I think, the People and the Adminiſtration are two Terms that are generally made uſe of as oppoſite to each other, and there was never greater Reaſon for making uſe of theſe two Terms in this Senſe, than there has been for ſeveral Years paſt. Then, with Regard to Heats and Animoſities, can any one ſay, that there has been lately any Heat or Animoſity amongſt the People, that is, amongſt any one Set or Party of them againſt another? There have, indeed, been great Heats and Animoſities in the Nation, but in this too, the People have been all united. They have moſt juſtly ſhewn Heats and Animoſities againſt the *Spaniards*, and as juſtly againſt thoſe who have ſo long prevented their doing themſelves Juſtice. Our Heats and Animoſities therefore, like our Diviſions, have been between the whole Body of our People upon one Side, and our Miniſters and Enemies upon the other; and this ſhews, that whatever Obſtinacy *Spain* may have ſhewn in her late Conduct towards this Nation, it could not be owing to the Diviſions, Heats or Animoſities amongſt us; becauſe ſhe could not but foreſee, that if, by her Obſtinacy, ſhe provoked us to declare War againſt her, the whole Nation, both People and Miniſters, would unite in a vigorous Proſecution of that War; which, I hope, is now our Caſe. I hope no Man will dare to check the Progreſs of our Arms, or to interrupt the Proſecution of the War, by any Negotiation, unleſs ſuch Preliminaries be offered, as will atone for all paſt Injuries, and ſecure us againſt all future.

Ann. 13 Geo. II. 1739.

My Lords, it was not by our Diviſions, that the *Spaniards* were encouraged to treat us in the contemptuous manner they have done: It was by the Hopes they had, that our Miniſters would not dare to give a Looſe to our Vengeance, by declaring War againſt them; and for theſe Hopes, the long Patience of our Miniſters, and their Fondneſs for Negotiation, had given them but too much Reaſon. But, if there had been Diviſions amongſt us, and if thoſe Diviſions made the *Spaniards* contemn us ſo much, as to refuſe fulfilling their Part of the laſt ſolemn Convention they made with us, I will then ſay, that our Diviſions have done a moſt ſignal Service to the Nation. The moſt unlucky Thing that could have befallen this Nation, would have been the Court of *Spain*'s making that ſtipulated Payment which they had wiſely promiſed, and we had generouſly, I cannot ſay wiſely, accepted of in full of all Demands. If the *Spaniards* had made that Payment, which I am ſurprized they did not,

Ann. 13 Geo. II. 1739. our Miniſters would, from thence, have got a Pretence to negotiate for the eight Months following, with the ſame Succeſs they had negotiated for the eight Years preceding; and the *Spaniards* would have got a Sort of Licence to plunder our Merchants for eight Months longer, by which they might fully have reimburſed themſelves the inconſidera- Sum paid for that Licence. But why ſhould ſay eight Months: Upon the Expiration of that Term, I am convinced, our Miniſters would have found Reaſons for giving them ſeveral Renewals, without any new Fine, becauſe the Renewals, and the ſeveral Negotiations for that Purpoſe, would have been moſt excellent Expedients for putting off two or three Seſſions more.

'This, my Lords, has been our Caſe for many Years paſt: We have, every Year, and from Seſſion to Seſſion, been put off with Hopes, that before next Seſſion, we ſhould be able to obtain ample Satisfaction, and undoubted Security, by thoſe Negotiations which every Man, except thoſe that carried them on, foreſaw would end in nothing but loading us with Expence at home, and with Ignominy and Contempt abroad. It is this, my Lords, that has created all the Diviſions, and all the Heats and Animoſities that have been amongſt us. The People were for Reſentment and Revenge, our Peace-makers for Patience and Forgiveneſs: The People called out for Reparation for paſt Injuries, our Peace-makers ſubmitted tamely to freſh Inſults. The People were for bravely vindicating, our Peace-makers for meanly proſtituting the Rights of the Nation. Thank God! the People have at laſt prevailed; and this has healed up all our Diviſions, and put an End, I hope a final End, to all our Heats and Animoſities.

'His Majeſty's Declaration of War has now, I hope, brought all his Miniſters to be of the ſame Sentiments his People have been of for many Years; at leaſt, if they are not ſo in their Hearts, they muſt be ſo in Appearance; and this muſt of courſe put an End to the only Diviſion that has of late appeared in this Nation: It muſt put an End to every Animoſity but that juſt one againſt our Enemies, which will now, I hope, be allowed to take its full Swing. Perhaps ſome of our Miniſters may ſtill have a Hankering after Negotiation: If they have, let them but look upon his Majeſty's Declaration of War, and they muſt ſtifle every ſuch Affection. They cannot ſuppoſe, that his Majeſty will ſubmit to treat with a Nation, that has exerciſed great Cruelties and Barbarities upon the Perſons of divers of his Subjects: They cannot ſuppoſe, that his Majeſty will ſubmit to treat with a Nation, that has inſulted the *Britiſh* Colours in the moſt ignominious manner; unleſs that Nation ſhall, in the humbleſt

blest manner, sue for Peace, and offer, by way of Preliminary, the most signal Satisfaction, for the Cruelties and Barbarities they have exercised upon his Subjects, and for the ignominious Insults they have put upon his Crown and Dignity; for I will be bold to say, that without such a signal Satisfaction, there is no future Security we can, with any Certainty, rely on. Nay farther, my Lords, no Man who reads his Majesty's Declaration of War can, I think, suppose, that he will treat with a Nation, that has been guilty of so many Breaches of Promise, and of so many Infractions of the most solemn Treaties, unless they offer by way of Preliminary, to put a real Security in our Hands, as a Pledge for their Performance of what shall be afterwards agreed on; and when the *Spaniards* are brought, by the Vigour of our Arms, (for they can never be brought to it by Negotiation) to offer these Things by way of Preliminary, I know so much of the generous, forgiving Temper of my Countrymen, that I can engage for their unanimous Approbation of any Treaty our Ministry shall conclude, upon such safe and honourable Preliminaries. Ann. 12 Geo. II. 1739.

'Thus, my Lords, his Majesty's Declaration of War has put an end to all the Divisions, Heats, and Animosities, that have lately been raised and fomented, by the Conduct of some of our Ministers; and the Form and Method in which it was drawn up will, I hope, secure us against a Renewal of any of those Divisions, Heats, or Animosities. For this Reason, I cannot let slip this Opportunity, to declare my Approbation of it. I not only approve of the Measure, but I highly approve of the Declaration itself. I do not know who it was that had the Honour of drawing it up: Be who he will, the Nation is, I think, highly obliged to him; for it is expressed in the most proper, the most just, and the strongest Terms that could be devised. But, my Lords, I must observe, that it is expressly contrary to the Reasoning that was made use of last Year, in favour of the Convention; and therefore, I was surprized to hear the noble Duke made a fresh Attempt to justify that Convention. I am sure, no Lord has a greater Respect for his Majesty, than he has: I am sure, no Man more heartily wishes to see our late Heats and Animosities utterly extinguished. But, when I consider the Terms in which the Declaration of War is expressed, I cannot think it altogether consistent with the Respect due to his Majesty, to attempt now, to justify a Convention, by which no Satisfaction was so much as stipulated, for those Cruelties and Barbarities the *Spaniards* had exercised upon his Majesty's Subjects, or for those ignominious Insults they had put upon the *British* Flag: And, I must look upon a

Ann. 13 Geo. II. 1739.

fresh Attempt to justify the Convention, as an Attempt to revive those Heats and Animosities that were raised in the Nation, by that most extraordinary Measure. I shall call it by no worse a Name, lest I should be accused of falling into the Error I am finding fault with: I hope it has now met with the Fate it deserves, and which, for the Honour of *Britain*, I wish it may meet with: I hope it is fallen into eternal Oblivion; and I wish it could be rased out of every historical Record.

'Having thus shewn, my Lords, what were the Divisions, Heats and Animosities, that have lately appeared amongst us, and having shewn that, by their very Nature, they must have all ceased, as soon as his Majesty declared War, I shall conclude with saying, that I believe the best Way to prevent their being renewed, is to forget that there were ever any such amongst us. Our Ministers have now changed their Measures: They have now entered into Measures, which the whole Nation approves of: Why should they now seek to justify those former Measures, which the whole Nation condemned? If they pursue with Vigour the Measures they have now entered into, the Nation seems willing to forget the Errors of their former Conduct: Why then should they now seek to brand, with the odious Names of Prejudices, Heats, and Animosities, the Objections which the People thought they had Reason to make to their former Conduct? This is doing what they can, to raise Heats and Animosities, instead of endeavouring to stifle them; therefore, in my Opinion, it was most imprudent to allow any such Words to have a Place in his Majesty's Speech from the Throne; and, for this Reason, I must be against their being echo'd back to the Throne, by our Address.

Lord *Hervey*.

Lord Hervey.

'My Lords, the Word *Echo* is, I find, a favourite Term, which is generally made use of upon all such Occasions as the present, for turning into Ridicule, a Custom which has for many Years been established. I know, it is easy for one who has so much Wit at command, as the noble Lord who spoke last, to give a ridiculous Turn, to the most reasonable Custom that can be introduced; but I likewise know your Lordships Discernment to be so good, that you can easily distinguish between what is ridiculous in itself, and what is rendered so only by the happy Genius of him who has a Mind to explode it; and therefore, I need not say much in favour of a Custom which I think most reasonable, and which has met with the Approbation of many Years, and of several succeeding Generations. In private Life, it has always been reckoned one of the highest Degrees of Contempt or Disrespect,

reſpect, to take no Notice of what a Gentleman ſays, when his Diſcourſe is particularly addreſſed to you: In public Life, I muſt think it is the ſame, and therefore I muſt think, it would be a Failure in that Reſpect which is due to our Sovereign, if we ſhould, in our Addreſs, omit to take notice of any one material Paragraph in his Majeſty's Speech from the Throne.

'Who it was, my Lords, that had the Honour to be conſulted by his Majeſty about the Speech he has now made to us, or who it was that adviſed him to inſert that Parrgraph, by which his Majeſty recommends to us, to avoid Heats and Animoſities, I do not know; but, if his Majeſty had thought fit to confer that Honour upon me, I ſhould have adviſed the very ſame Thing; and what has already happened amongſt us, would, in my Opinion, have juſtified that Advice. There has, 'tis true, no Heats or Animoſities happened this Day amongſt us: There never do happen any ſuch in our Debates; but the Debate of this Day will, I am afraid, add freſh Fuel to the Heats and Animoſities that ſtill ſubſiſt without Doors; and, if Lords would conſider, that this is generally the Conſequence of every Debate that ariſes in this Houſe, I am convinced, we ſhould not have ſo many of them as we have; becauſe, in this Caſe, I believe, no Lord would raiſe a Debate, by oppoſing any Propoſition made by another, unleſs he thought the Honour or the Intereſt of his Country deeply concerned in the Queſtion.

'I ſhall not diſpute with the noble Lord that ſpoke laſt, whether the few Words objected to, dropt by Accident into the Motion made by my noble Friend, or whether they were inſerted with Deſign In either Caſe, I think, they ought not to have occaſioned a Debate; eſpecially, at a Time when we ought not only to be unanimous, but to avoid the leaſt Appearance of Diſcord. If they dropt in by Accident, the noble Lord who ſpoke laſt has acknowledged, they are of no Importance, and might therefore, for the Sake of Unanimity, have been agreed to without any dangerous Conſequence. And, if they were inſerted with Deſign, I cannot ſo much as ſuppoſe any other Deſign, than that of ſhewing a proper Reſpect to his Majeſty, which no Lord ought to oppoſe. The noble Lord has, 'tis true, found out another Deſign: He ſuppoſes, that they were inſerted on purpoſe, for juſtifying ſome Repreſentation made to his Majeſty. I do not know of any Repreſentation that has been made to his Majeſty, nor do I think there was the leaſt Occaſion for repreſenting to him, that there have been Diviſions amongſt us: It is what he could not but know, by looking upon the Journals of either Houſe of Parliament, which, I

Ann. 13 Geo. II. 1739.

hope, either he or his Servants may do without any Offence: And we cannot, in Juſtice, ſuppoſe him ſo much unconcerned about what paſſes amongſt his People, as not to know, that there have been great Heats and Animoſities among them. None of his Servants, therefore, had the leaſt Occaſion to make any ſuch Repreſentation to him, and if any of them have made ſuch a one, it was ſo far from being a Miſrepreſentation, that it has been confirmed, by every Lord that has ſpoke in this Debate. It is acknowledged on all Sides, that there have been Diviſions, Heats, and Animoſities in the Nation; but, on one Side, it has been ſaid, that they are all now put an end to, by his Majeſty's Declaration of War, and that they were not between one Set or Party of the People and another, but between the whole Body of the People on one Side, and his Majeſty's Servants or Miniſters, as ſome always affect to call them, on the other.

'My Lords, I am extremely glad to hear, that our Diviſions are all put an end to, by his Majeſty's Declaration of War: I wiſh it may be ſo. If it is, it ſhews his Majeſty's Wiſdom; and his recommending to us, to avoid any ſuch for the future, in my Opinion, ſhews his Goodneſs. But I do not know what the noble Lord means by Diviſions between the whole Body of the People of one Side, and a few of his Majeſty's Miniſters of the other. He muſt be an unhappy Miniſter, that has no Set of Men, no Party in the Nation, that approves of his Conduct. I do not know that I ever read of ſuch a Miniſter in our Hiſtories, and, I believe, we have had as bad as any we have at preſent. But, for God's ſake, what is this Meaſure, that has been approved of by a few of his Majeſty's Miniſters, and condemned by all the reſt of the Nation? If his Lordſhip means any of our late Negotiations, or even the late Convention, I muſt deſire him to recollect, that they were all, not only approved of, but adviſed by both Houſes of Parliament, as well as by all his Majeſty's Miniſters. I ſhall grant, that there was a Party in the Nation, as well as in each Houſe of Parliament, that diſapproved of thoſe Meaſures; and I do not pretend to find fault with them for ſo doing. Thoſe that are not employed by his Majeſty, may differ in Opinion with thoſe that are; and, thank God, they may, in this free Country, avow their Sentiments, and declare them openly. This I ſhall never find fault with: I hope we ſhall always retain this valuable Liberty: But I muſt find fault, when Heats and Animoſities are mixed with that Liberty which is indulged us by our Conſtitution; and this is what his Majeſty moſt graciouſly, I think, adviſes us to avoid: This is what we are to declare we ſhall avoid, by the Addreſs my noble Friend has been

pleaſed,

pleaſed to propoſe: and this, I think, is the leaſt we can do, in return to that moſt gracious Advice his Majeſty has vouchſafed to give us from the Throne. Ann. 13 Geo. II. 1739.

'I am far from ſaying, my Lords, that any Heats or Animoſities have lately appeared in this Houſe; but there have been Diviſions amongſt us, and, by what the noble Lord has ſaid of the late Convention, he has ſhewn, that thoſe Diviſions ſtill ſubſiſt. I am ſorry that Affair ſhould now be brought into any of our Debates. I am certain, it is what we have nothing to do with, upon this Occaſion; but, when fault is found with any paſt Meaſures, or ſatyrical Things thrown out againſt it, it is natural, and even reaſonable, in thoſe who adviſed or approved of it, to ſay ſomething in its Vindication. The Convention, my Lords, was attended with this Benefit at leaſt, that it gave us Time to prepare for War, and to give Notice to our Merchants, to withdraw their Effects out of the *Spaniſh* Dominions; and I muſt think, that *Spain*'s refuſing to perform what was therein ſtipulated, is now a ſtrong Argument for convincing us, that it was both honourable and advantageous on our Part. To which I muſt add, that it was not only ratified by his Majeſty, but approved of by both Houſes of Parliament; and therefore, if the Reſpect that is due to our Sovereign does not, the Reſpect we ought to have for that Aſſembly, of which we are Members, ought now to prevent our giving it ill Names, or loading it with any invidious Epithet.

'I ſhall not now, my Lords, take upon me to determine, Whether it would have been happy for this Nation or no, to have had the Convention punctually performed on the Part of *Spain*. But I cannot think it would have been any Loſs to us, to have had 95,000 *l.* of *Spaniſh* Money to have divided amongſt our injured Merchants; and I am ſure, it would have been happy for the Nation, to have obtained Juſtice without a War, if ſuch a Thing could have been any Way accompliſhed. This Conſideration muſt, of itſelf, juſtify our endeavouring to obtain Satisfaction, by Negotiation; and the Convention ſhewed, that our Hopes of ſucceeding in that Way, were not without ſome Foundation. Therefore, when I hear ſarcaſtical Reflections thrown out againſt our pacific Meaſures, which, now War is declared, muſt be allowed to be quite out of the Queſtion. I muſt ſuppoſe, that it proceeds from that Spirit of Diviſion, which has ſhewn itſelf formerly even in this Houſe, and which has, without Doors, often broke forth in violent Heats and Animoſities.

'By his Majeſty's Declaration of War, I ſhall grant, my Lords, that this Spirit ſeems to be ſomewhat allayed; but, I'm afraid, it is far from being extinguiſhed. The ſame

Spirit

Ann. 13 Geo. II. 1739. Spirit that made ſome Part of the People ſhew ſuch Heats and Animoſities againſt thoſe Meaſures his Majeſty was pleaſed to take for preventing a War, will, I believe, prevail with them to find fault with every Meaſure his Majeſty may be pleaſed to take, for bringing it to a happy and ſpeedy Concluſion. The Misfortunes we may meet with, and ſome we muſt meet with, will be aggravated; the Advantages we may gain, and, I hope, we ſhall gain a great many, will be depreciated: In ſhort, unleſs your Lordſhips begin to ſhew a good Example, I expect that every Step of his Majeſty's Conduct in time of War, will be oppoſed, or miſrepreſented, as well as every Step of his Conduct has been in time of Peace. The Calm we now ſeem to enjoy, is not, I'm afraid, owing to the utter Extinguiſhment of thoſe Flames of Strife and Contention, which too often prevail in this Kingdom, but to their wanting Materials to feed on. The War has been ſo lately declared: The Incidents that have happened, or could have happened, are ſo few, that the moſt diſcontented have, as yet, no room for ſhewing their Spleen againſt the Adminiſtration; but, from what has happened To-day, we have, I think, no Reaſon to conclude, that our Diſcontents or Diviſions are at an end. No Fault can be found with the Declaration of War, no Fault can, as yet, be found with the Conduct of the War; but Fault muſt be found with ſomething; therefore, we have this Day had the Conduct of our public Affairs for Twelve or Fourteen Years paſt examined into, and every Step of it, I think, condemned, tho' no Part of it any way relates to the Queſtion now before us. For my Part, my Lords, I ſhall not give your Lordſhips the Trouble of entering into a minute and particular Juſtification of our Conduct, and of all the public Expences that have been incurred, during that long,--very long Period, as ſome have thought it: The Taſk would not be difficult; but it would be tedious, and, I think, unneceſſary: Therefore, I ſhall only obſerve in general, that every Step of our Conduct, during that Period, has been approved by both Houſes of Parliament; and every Article of our public Expence, has not only been approved, but provided for, by Parliament; conſequently, as there have been ſeveral general Elections within that Period, I muſt think, that not only the Conduct of our public Affairs, but all the public Expence the Nation has been put to, has met with the Approbation of a great Majority of the People.

'We are now, my Lords, engaged in a War, and in a War too, that may prove a very heavy and dangerous one, eſpecially, if, by our Diviſions, ſome of our Neighbours ſhould be encouraged to join with *Spain* againſt us, and our Allies

Allies diſcouraged from giving us any Aſſiſtance; therefore I wiſh ſome noble Lords would do what they acknowledge to be right: I wiſh they would forget all former Contentions, and heartily unite in every Thing that may tend to ſhew our Friends, as well as Enemies, that whatever Diviſions there may be amongſt us, whatever Faults we may find with the Conduct of our Miniſters, in time of Peace, we will do nothing, nor ſay any thing, that may diſconcert or interrupt them, in the Proſecution of a juſt and neceſſary War. If this had been the Caſe, I am ſure no Part of his Majeſty's Speech, nor any Part of the Addreſs now propoſed, would have been objected to; for, ſuppoſe there were now no Diviſions amongſt us, nor any Heats or Animoſities in the Nation, ſuppoſe there never had been any ſuch, yet, I cannot think it would have been wrong in his Majeſty now, at the beginning of a War, to caution us againſt Diviſions, Heats, and Animoſities, nor in any of his Miniſters, to adviſe him to do ſo; and far leſs would it have been wrong in us, to make a proper Return to that Part of his Majeſty's Speech, by declaring in our Addreſs, that we would take care to follow the Advice his Majeſty had ſo graciouſly and ſo properly given. It is what has been often done, by the Sovereign, from the Throne; and it is what this Houſe has never failed to make a proper Return to; therefore, if we ſhould, upon this Occaſion, neglect to do ſo, I ſhould think, I am ſure the whole World without Doors would think, it proceeded from that very Thing which his Majeſty complains of in his Speech, and to which he moſt juſtly, in my Opinion, imputes the late, and otherwiſe unaccountable Obſtinacy, or rather Contumacy of *Spain*. For this Reaſon, my Lords, I ſhall be ſo far from diſagreeing with any Part of the Addreſs my noble Friend has been pleaſed to propoſe, eſpecially that Part, which ſome noble Lords have thought fit to object to, that if he had omitted to propoſe it, I ſhould have ſtood up in my Place, and endeavoured to ſupply the Defect, by way of Amendment.'

The Earl of *Scarborough*.

The Earl of *Scarborough*.

'My Lords, although I have often had the Misfortune to find what I approved of, oppoſed by ſome Lords for whom I had a very great Eſteem, yet, I never could allow myſelf to call that Oppoſition a Diviſion, or to think that it proceeded from any Party-Prejudice, or private Diſcontent: and, I am ſure, it cannot, with the leaſt Juſtice, be ſaid, that any late Oppoſition has, in this Houſe, been carried on with Heat, or Animoſity. I have been always ſo candid as to think, that

Ann. 13 Geo. II. 1739.

that if any Lord oppoſed what I approved, he did it, becauſe he thought it was wrong; and, if he propoſed any Thing in which I could not join, I have always ſuppoſed, he did it, becauſe he thought it was right. This has always been my Way of Thinking, about the Conduct of thoſe who differed from me in Opinion, and I hope it has been their Way of Thinking, about mine. Therefore, I cannot think there has been lately any Thing amongſt us that could properly be called a Diviſion, and I am ſure, there has, of late, no Heat or Animoſity appeared in any of our Debates. I have, indeed, obſerved great Heats and Animoſities expreſſed, both within Doors and without, againſt the inſulting Treatment we have, for many Years, received from *Spain*; but I was ſo far from diſapproving, that I have always joined in ſuch Heats and Animoſities: I have always reflected upon the Inſults offered us by *Spain*, with as great Indignation as any Man in the Kingdom, tho' I differed perhaps with ſome, as to the Method, or rather as to the Time of ſhewing our Reſentment in a proper Manner, againſt the Conduct of that inſolent and impotent Nation.

'It is long ſince their Conduct deſerved the higheſt and moſt immediate Reſentment: It is long ſince we might, with Juſtice, have made them feel the moſt fatal Effects of our Vengeance; and whatever the natural Haughtineſs of that Nation may make them ſuppoſe, the reſt of *Europe* muſt be convinced, that our Forbearance has been owing to a Compaſſion for their Weakneſs, and not to any Dread of their Power. It was this, that made his Majeſty reſolve, by accepting of the late Convention, to give them a freſh Opportunity for ſeeing the Fooliſhneſs of their Conduct towards us, and for preventing, by a Submiſſion, that ſevere Correction it deſerved to meet with. But I am ſurprized to hear ſome Lords inſiſt ſo ſtrongly, and as it were triumphantly, upon that Convention's meeting with the Approbation of both Houſes of Parliament. I believe, there were a great many, who approved of the Addreſs propoſed upon that Occaſion, tho' they were very far from approving of the Convention. I remember, one of the chief Arguments inſiſted on in favour of that Addreſs, was, that it did not imply an Approbation of the Convention. If ſuch a Thing had been propoſed, I believe, inſtead of meeting with the Concurrence of both Houſes of Parliament, it would have been rejected by both, with Diſdain.

'I am convinced, that ſeveral Lords gave their Conſent to the Addreſs propoſed upon that Occaſion, becauſe they thought it did not imply an Approbation of the Convention; and as I had the Honour to be ſo well acquainted with the Meaſures

Measures his Majesty had resolved on, that, if *Spain* did not soon yeild to a great deal more than was expresly stipulated by the Convention, I was thoroughly convinced, that a War would speedily ensue; therefore, tho' I did not approve of the Convention, nor of the Address that was proposed upon that Occasion, yet, I was against our doing any thing in this House that might hurry our Ministers into a War, before they had sufficiently provided for prosecuting it with Vigour; and, as a Resolution proposed in this House, towards the End of last Session, would have been a sort of Parliamentary Declaration of War against *Spain*, and consequently would have precipitated the Nation into a War, before we were sufficiently prepared, either for defending ourselves, or offending the Enemy; therefore, I was against that Resolution, tho' it was proposed and supported by several Lords for whom I shall always have the greatest Regard. An. 14 Geo. II. 1739.

'So much I thought necessary to trouble your Lordships with, for explaining my Conduct last Session, lest it should be inferred from what has been said in this, that, if *Spain* had made the Payment stipulated by that Convention, I should have been for continuing to negotiate with them for eight Months, or one Month longer, and allowing them, in the mean time, to search and seize our Ships in the *American* Seas. This, my Lords, I should have been against, notwithstanding my having been against the Resolution proposed at the End of last Session; and, if this had happened to be the Case, it would, indeed, have made a Division among us; but then, it would have been such a Division as a noble Lord has represented: It would have been a Division between the whole People of the Nation on one Side, and a very few of his Majesty's Ministers on the other. About the time the Convention was concluded, there was, I shall grant, some sort of Dispute, tho' not properly a Division, about the most proper Time for declaring War against *Spain*. Some thought that it ought then immediately to be declared, while others thought that it was prudent to wait four Months longer. But, no Man thought, at least, no Man, Minister or other, dared to say, that, if *Spain* refused to make the stipulated Payment within the Time limited, or pretended to evade any longer settling the chief Point in Dispute between the two Nations, we ought not, even in that Case, to declare War, or begin Reprisals against them. About this, there never was any Dispute, much less a Division among us, and therefore, upon their failing to perform what they had promised, Hostilities were begun, and War at last declared, as I expected, with as great Unanimity among all Ranks and Degrees of Men, as any public Measure ever met with. For

Ann. 12 Geo. II. 1739. this Reaſon, I cannot but diſapprove of that Paragraph in his Majeſty's Speech, which relates to Diviſions, Heats, and Animoſities; and much more muſt I diſapprove of the Return propoſed to be made to it in our Addreſs. The former, in my Opinion, bears, and the latter confirms, an Inſinuation, that is evidently and abſolutely falſe. They both tend to inſinuate, as if there were a Party among us, that with Heat and Animoſity oppoſed and condemned our having declared War againſt *Spain*. If a Foreigner, who knew nothing of the Diſpoſition of the People of the People of this Nation, were to read his Majeſty's Speech, this I am convinced would be the Conſtruction he would put upon the Paragraph found fault with; and in this Opinion he would be confirmed, by reading in our Addreſs, the Anſwer propoſed to be made to that Part of his Majeſty's Speech.

'This, I ſay, my Lords, will be the Opinion of every Foreigner that reads his Majeſty's Speech from the Throne, and our Addreſs by way of return; and as it is not only a falſe Opinion, but likewiſe an Opinion that may be of great Prejudice to this Nation, I ſhall be againſt our ſaying any thing in our Addreſs that may tend towards eſtabliſhing, among Foreigners, a Belief in an Opinion ſo injurious to the People of this Kingdom, and ſo miſchievous with regard to its Conſequences in the preſent War,

'I have, my Lords, the Satisfaction to think, that no Man doubts of my Eſteem for his Majeſty's Perſon, or my Zeal for his Service; but I ſhall always be for ſhewing that Eſteem, and teſtifying that Zeal, by declaring my Sentiments freely in every Place, and upon all Occaſions, where my Duty calls upon me to do ſo; and, upon the preſent Occaſion, I think, I am called upon to do ſo, by all the Ties of Honour, Loyalty and Friendſhip; becauſe, I am convinced, his Majeſty would not, in his Speech, have made uſe of any ſuch Words as thoſe now complained of, if ſome malicious Inſinuations had not been made to him againſt thoſe who have, with great Calmneſs and Decency, oppoſed ſome late Meaſures, for no other Reaſon, I believe, but becauſe they thought them inconſiſtent with the Honour or Intereſt of their Country. As ſuch Inſinuations muſt tend towards giving his Majeſty an ill Impreſſion of thoſe, whom I ſhall always look on as good Subjects, tho' they may ſometimes differ with me in Opinion; therefore, I ſhall be againſt our doing any thing in this Houſe, that may confirm ſuch Inſinuations; and for this Reaſon, I muſt be againſt inſerting in our Addreſs the Words or Expreſſions objected to, by ſome of the noble Lords who have ſpoke before me in this Debate.'

The

The Lord Chancellor.

The Lord *Chancellor.*

'My Lords, as nothing is more neceſſary at the Beginning of a War, than Concord and Unanimity amongſt ourſelves; and as our Unanimity at preſent ſeems to be interrupted by a Miſapprehenſion of what his Majeſty has ſaid in his Speech from the Throne, and likewiſe of what the noble Lord has been pleaſed to propoſe by way of Anſwer; I hope your Lordſhips will excuſe my riſing up, to endeavour to reſtore that Unanimity which I wiſh to ſee eſtabliſhed, by explaining and removing that Miſtake which, I think, has occaſioned the preſent Interruption.

The Objections that have been made to ſome Part of the Addreſs propoſed, have, in my Opinion, my Lords, been occaſioned by ſuppoſing, that the Heats and Animoſities there mentioned, relate to the preſent Time, and to the late particular Meaſure of declaring War againſt *Spain*. Now, if your Lordſhips will but conſider the Expreſſions themſelves, which the noble Lord was pleaſed to make uſe of, in that Part of the Propoſition he has made to you, which has been objected to, and the Expreſſions in that Part of his Majeſty's Speech to which they refer, you will ſee, that neither the one nor the other can be ſuppoſed to relate to the preſent Time, or to any particular Meaſure. The Expreſſions made uſe of by his Majeſty in his Speech from the Throne, and by his Lordſhip in the Propoſition he has made for an Addreſs by way of Anſwer thereto, plainly refer to the Time paſt, and to Heats and Animoſities in general, without the leaſt Application to any particular Meaſure; and when this is maturely conſidered, I am of Opinion, no reaſonable Objection can be made, either to his Majeſty's Speech, or to any Part of the Propoſition now before you.

Upon the preſent Occaſion, my Lords, I do not think it neceſſary for me to ſhew, what Sort of Heats and Animoſities have been amongſt us, or how, or between whom, our late Diviſions have ariſen. It is acknowledged by all, that there have been Diviſions, Heats, and Animoſities amongſt us: Nay, they became ſo notorious, that even our Enemies took Notice of them, as appears by the *Spaniſh* Manifeſto; and I am convinced they were, as his Majeſty has told us, the chief Cauſe of that Obſtinacy which *Spain* has of late Years ſhewn in all her Negotiations with us. Therefore, whatever theſe Diviſions were, they muſt be allowed to be a good Foundation for that fatherly and tender Exhortation to Peace and Unity, which his Majeſty has moſt graciouſly given us in his Speech from the Throne. Suppoſe our late Diviſions had been between the People of one Side, and his Majeſty's Miniſters or Servants on

Ann. 13 Geo. II. 1739.

the other; and that thoſe Diviſions had occaſioned Heats and Animoſities in the Kingdom, even ſuch a Diviſion, if any ſuch could be, would be unhappy for the Nation; and as his Majeſty is the political Father of us all, as he is the Father of his Servants, as well as of his Subjects, it became, in that Caſe, neceſſary for him, eſpecially at the Beginning of a foreign War, to endeavour to reconcile them to each other, by recommending Peace and Unity to both; at leaſt it muſt, I think, be acknowledged, that it was gracious in him to do ſo, and that it ſhewed his Concern for the general Welfare of his Kingdoms.

But, my Lords, I am far from being of Opinion, that any ſuch Diviſion can ever exiſt, in which the whole People are of one Side, and the King's Miniſters, or a few of them only, of the other. I believe, the moſt hated or deſpiſed Adminiſtration that ever was in this Kingdom, had a great many Friends among the People, and a great Party that approved of their Meaſures; and therefore, I cannot approve of the Cuſtom mentioned by a noble Lord in this Debate, of making uſe of the Words People and Adminiſtration as two oppoſite Terms; I think it an invidious Sort of Diſtinction; and therefore I muſt think, that the Cuſtom is at all Times ſomewhat ſeditious. If any one has of late made uſe of this Diſtinction, and endeavoured to recommend the Uſe of it to others, the doing ſo could proceed from nothing but Heat and Animoſity; for none of his preſent Majeſty's Miniſters have done, or adviſed any Thing, that could give the leaſt Room for thinking, that they were in any Intereſt oppoſite to that of the People. Gentlemen may differ in their Opinions; and thoſe who have the Honour to ſerve his Majeſty, may think that for the Good of their Country, which others think not to be ſo; but thoſe who differ from them, ought to judge of their Conduct with that Candour and Charity, which the noble Lord who ſpoke laſt has recommended, and which, I am convinced, is a Way of Judging practiſed by him upon all Occaſions. If every Man, both within Doors and without, wou'd follow his Lordſhip's Example, we ſhould have no Heats or Animoſities in the Kingdom, nor would any one ſuppoſe ſuch a Diviſion, as that of the whole Body of the People upon one Side, and a few of his Majeſty's Miniſters upon the other.

Such a Diviſion, my Lords, can never, as I have ſaid, exiſt in any Country, and much leſs in this than any other, unleſs our Conſtitution ſhould be firſt overturned, or at leaſt ſuſpended; and I am ſure we have lately had nothing like it. We had indeed, a very great Diviſion amongſt us, but laſt Seſſion of Parliament: Some were for an immediate War againſt *Spain*, notwithſtanding the Convention they had agreed to, and others were for waiting a few Months longer, to ſee

if

if we could obtain Juſtice by peaceable Means. His Majeſty's Servants knowing the great Regard he had for the Trade and Welfare of his Subjects, were very generally, I believe, of the latter Party, which was ſo far from conſiſting of his Majeſty's Miniſters only, that it had a Majority in both Houſes of Parliament, and conſequently, by our Conſtitution, we are obliged to ſuppoſe, that it had a Majority among the People. Notwithſtanding this Majority, they ſupported their Opinion, both within Doors and without, with great Moderation and Tranquillity; but I cannot ſay ſo of the other Party. In this Houſe, I ſhall grant, there was no Heat or Animoſity appeared; but the Party without Doors did break out into Heats and Animoſities, and endeavoured, as is uſual upon all ſuch Occaſions, to ſupport by Noiſe and Clamour without Doors, what they could not ſupport by Reaſon and Argument within. This Diviſion, and theſe Heats and Animoſities, are now, 'tis true, at an End; but others may ariſe, and therefore it was very natural, and even neceſſary, I think, for his Majeſty, the next Time he met his Parliament, to recommend Unity and Concord, and to exhort us to avoid Heats and Animoſities. He does not ſo much as ſuppoſe there are any at preſent ſubſiſting: He gives us only a gracious Exhortation to avoid ſuch in Time to come: This ſurely can never be taken amiſs in any Country, or at any Time; and much leſs in a free Country, where Diviſions, Heats and Animoſities are apt to ariſe, notwithſtanding the utmoſt Caution; and at the Beginning of a heavy and dangerous War, when they may be of more pernicious Conſequence than at any other Time. Ann. 13 Geo. II. 1739.

Having thus explained to your Lordſhips, what is meant by that Paragraph in his Majeſty's Speech, in which Diviſions, Heats, and Animoſities are mentioned, I hope it will appear, that no reaſonable Objection can be made to it: I hope it will appear, that it is only a general Exhortation to Peace and Unity; and ſhall we ſo much neglect, or rather, in my Opinion, contemn ſuch a kind, ſuch a gracious, and ſuch a fatherly Exhortation, as not to make the leaſt Return to it in our Addreſs? What the noble Lord has propoſed, is, I think, the leaſt Return we can make: His Lordſhip's Propoſition, like what his Majeſty has ſaid in his Speech, does not relate to the preſent Time, nor to any particular Diviſion that has been amongſt us. It is only a general Declaration, that we will promote Harmony and Unanimity in Time to come. This is, I hope, what every Lord in this Houſe is reſolved on, and therefore, I hope, no Lord will oppoſe our giving his Majeſty and his Allies the Satisfaction, and his and our Enemies the Mortification, to declare it

Ann. 13 Geo. II. 1739.

in the Terms propoſed, or in more expreſs Terms, if ſuch could be contrived and were thought neceſſary.'

E. of *Winchelſea.*

Earl of *Winchelſea.*

'My Lords, If I were to conſider his Majeſty's Speech from the Throne, as a Speech really framed by himſelf, and without the Advice of any of his Miniſters, I ſhould be apt to join with the noble Lord that ſpoke laſt, in looking upon it as a fatherly and tender Exhortation; but it is well known, that in this Houſe we always do, nay, we ought to conſider his Majeſty's Speech as the Speech of his Miniſter; and, when I conſider it in that Light, I cannot look upon that Part of it, which relates to Diviſions, Heats and Animoſities, as a friendly Exhortation: I muſt look upon it as a deſigned Reflection upon thoſe, who, not only laſt Year, but for many Years preceding, took the Liberty to condemn his tame Submiſſions and pacific Negotiations, which have, as was long ſince foretold, at laſt ended in an open and declared War; and that at a Seaſon, which, if we conſider the preſent Situation of Affairs in *Europe*, we muſt allow to be the moſt unlucky for this Nation, of any we could have choſen, ever ſince *Spain* began to inſult and plunder, and he to negotiate and ſubmit.

In this Light, I ſay, my Lords, I muſt conſider it, and I conſider it in this Light, becauſe we have of late Years had no Appearance of any Diviſion, much leſs of any Heat or Animoſity, but what has been occaſioned by his Meaſures. We have lately had none of thoſe Party Diviſions amongſt us, with which this Nation uſed formerly to be perplexed: The *Jacobite* Party is now, thank God! entirely broke: Whig and Tory, High Church and Low, have been many Years ago quite forgot: We are all united in a Reſolution to ſupport and preſerve our Conſtitution under the preſent happy Eſtabliſhment: Nothing like a Diviſion has for many Years appeared amongſt us, but what was occaſioned by ſome Miniſterial Meaſure, which was thought ruinous to the Trade, or inconſiſtent with the Honour of the Nation; and in ſuch Circumſtances, when the Miniſter comes and tells us, That Heats and Animoſities have been, with the greateſt Induſtry, fomented throughout the Kingdom; and that our Diviſions have encouraged our Neighbours to uſe us ill; and that we ought to avoid all ſuch for the future; I muſt look upon it as a deſigned Reflection upon thoſe, who have found fault with any of his Meaſures in Time paſt, and as an imperious Sort of Exhortation to approve and ſubmit blindly, in Time to come, to every Thing he may vouchſafe to propoſe to us, and to every Meaſure he may think fit to purſue.

This

This, my Lords, is the Conſtruction that muſt be put upon what is ſaid in his Majeſty's Speech about Diviſions, Heats, and Animoſities, by every Lord who conſiders the Speech in that Light, in which alone it ought to be conſidered in this Houſe. This is what could not but be foreſeen by thoſe who adviſed the Speech; and therefore, if they have this Day heard any unwelcome and galling Truths relating to their paſt Conduct; if their paſt Meaſures have not been allowed to ſink into that Oblivion they deſerve; thoſe who adviſed the Speech have themſelves only to blame; for when an Oppoſition, that Experience as well as Reaſon has juſtify'd, is called Animoſity, and is aſſigned as the Cauſe of that Misfortune, which evidently proceeded, not from the Oppoſition, but from the Meaſures that were oppoſed, it became neceſſary for thoſe who had joined in that Oppoſition, to juſtify their Oppoſition, by expoſing and again demonſtrating the Weakneſs of thoſe Meaſures they had oppoſed. The Diſagreement therefore that has this Day happened amongſt us, and which ought, certainly, by all Means to have been prevented, is not owing to thoſe who have this Day found fault with paſt Meaſures, but to thoſe who moſt unneceſſarily, I ſhall not ſay arrogantly, revived the Memory of them, by giving the invidious Names of Diviſion, Heat, and Animoſity, to the Oppoſition that was made to them.

From this Conſideration, every Lord that has this Day found fault with any of our late Meaſures, muſt be juſtified, and from this likewiſe, I hope, I ſhall be juſtified, in taking ſome Notice of what has been this Day ſaid in favour of our late Convention with *Spain*. The Diſadvantages and Diſhonour of that Treaty were laſt Seſſion ſo fully expoſed, that I ſhould not have given your Lordſhips the Pain to hear that Treaty again mentioned, if ſome Arguments had not been now advanced in its Vindication, that neither were, nor could be made uſe of, when it was laſt Year under our Conſideration. We have been told, my Lords, that this Treaty now appears to have been an honourable and advantageous Treaty for this Nation, becauſe *Spain* refuſed to perform it on their Part. So far otherwiſe, that their refuſing to pay the 95,000 *l.* confirms what was ſaid laſt Year by thoſe that oppoſed our Approving of the Treaty. They then foretold, that *Spain* would not pay a Shilling of that Money, unleſs our *South-Sea* Company firſt paid them the 68,000 *l.* they demanded; and the Event has confirmed what was then propheſied; which ſhews, that the Treaty was really more diſhonourable, than what upon the Face of it appeared; tho' even this pretty clearly appeared, by the King of *Spain's* Declaration, which our Negotiators had, it ſeems, accepted of as the Condition upon which his very Signing,

Ann. 13 Geo. II. 1739.

Signing, and much more his Performing of that Treaty, was to be proceeded on. Their inſiſting upon our receiving that Declaration, ſhewed the Contempt they had of our Conduct, and their adhering ſo cloſely to what they thereby declared, was only a farther and a ſtronger Manifeſtation of that Contempt.

Another new Argument this Day made uſe of in favour of that Convention, is, that it was neceſſary for us to prepare for War before we declared it; and that the Convention gave us Time to be prepared for War, and to ſend Notice to our Merchants to remove their Ships and Effects out of the *Spaniſh* Dominions, which we could not otherwiſe have had. This Argument, my Lords, is built upon the Suppoſition of a Fact, which every one knows to be falſe. Did we make the leaſt Preparation for War during the *four* Months the Convention held us in Suſpence? Did we in all that Time give the leaſt Hint to our Merchants to withdraw their Effects? It is well known, that we did not begin to prepare for War till the Month of *June* laſt, nor did we ſend Notice to our Merchants to withdraw their Effects, till the Month of *July*; and might not this have been done in the Month of *June* or *July* was a Twelvemonth, as well us in the Month of *June* or *July* laſt? Certainly it might. Nay, we can always, in a Month's Time, prepare ſufficiently for commencing a War againſt *Spain* alone, and therefore have no Occaſion for entring into a diſhonourable Negotiation, much leſs for concluding a diſhonourable Treaty with them for ſuch a Purpoſe.

As theſe, my Lords, are the only new Arguments I have this Day heard in favour of that moſt diſhonourable Treaty, I ſhall give your Lordſhips no farther Trouble upon a Subject, that I always mention with Reluctance, becauſe the leaſt Mention of it muſt, I think, be grating to every Man that hears it, if he has any Regard for the Honour or Intereſt of this Kingdom. What I have ſaid, when added to what has been before ſaid upon the ſame Subject, will ſufficiently juſtify the Oppoſition that was made to it; therefore, I muſt think, it was wrong to adviſe the Inſerting of any Thing in his Majeſty's Speech, that might ſeem to caſt a Reflection upon that Oppoſition; and conſequently, I muſt be againſt our enforcing, and, as it were, redoubling that Reflection, by any Words in our Addreſs. I know, that the Cuſtom of *echoing* back (I muſt, my Lords, make uſe of the Word *Echo*; if I knew a more burleſque Word, or a Word that more ſtrongly ſhewed my Comtempt, I would certainly uſe it) I ſay, my Lords, I know that the Cuſtom of *echoing* back his Majeſty's Speech from the Throne, in the Addreſs of this

this Houſe, is of ſome Standing; but I likewiſe know, that Ministers have, ever ſince that Cuſtom began, had more Influence in Parliament, than they had in former Reigns, and more, perhaps, than they ought to have in any Reign. Such a Cuſtom is rather a Sign of Compliaſance to the Miniſter, than of Reſpect to the Sovereign. The greateſt and beſt Sign of Reſpect we can ſhew to the Sovereign, is Sincerity; and, if this Cuſtom continues for any Time longer, our Sincerity to our Sovereign will, I am afraid, be loſt in a fawning Complaiſance to his Miniſter. Ann. 13 Geo. II. 1739.

Let us, therefore, my Lords, take this Opportunity, which I think a good one, to interrupt the Cuſtom, leſt it ſhould, as other Cuſtoms have done, become common Law, which the Lawyers ſay is Common Reaſon, even tho' it be inconſiſtent with the Reaſon of every Man but a Lawyer. But, if your Lordſhips are reſolved that your Addreſs ſhall be a compleat and faithful *Echo* to the Speech, I think, you ſhould go farther than has yet been propoſed: I think you ſhould take ſpecial Care to declare it as your Opinion, that the Heats and Animoſities fomented amongſt us, has been one of the chief Encouragements to the Court of *Spain*, to hold ſuch a Conduct towards this Nation, as to make it neceſſary to have Recourſe to Arms; becauſe, this I take to be, with Regard to the Miniſter, the moſt important Sentence in the whole Speech; and therefore ought not, ſurely, to be neglected by thoſe, who think that every material Sentence in his Majeſty's Speech ought to be moſt dutifully *echoed* back to the Throne by the Addreſs of this Houſe.'

Duke of *Argyle*.

'My Lords, I muſt begin what I have to ſay to your Lordſhips upon this Occaſion, with obſerving, that I am very much diſappointed in the Hopes, I with Pleaſure entertained for ſome Time, before we met in this Houſe. Our Situation before this Seſſion opened, was very different from what it was before the Opening of the laſt. We had then juſt received the ſorrowful Tidings of a new Convention between us and *Spain*, which before we ſaw it, had great Encomiums beſtowed upon it, by thoſe who had been concerned in the Negotiation. This new Treaty was to put a happy and honourable End to all our Differences with *Spain*: It was to give Reparation to our injured Merchants, and to procure Satisfaction to the Nation, and Security to our Trade in Time to come: In ſhort, it was to give us all we wanted, and more than we could have expected. But theſe Encomiums The Duke of *Argyle*.

Ann. 13 Geo. II. 1789.

I could put no Faith in. I knew the Haughtineſs of thoſe we had been treating with; I knew the contemptible Opinion they had of the Perſons they treated with; and therefore, I expected, that this new Treaty would reſemble ſome former Treaties we have lately made, in nothing ſo much as in Diſhonour and Diſgrace. This made me expect to ſee, during that Seſſion, great Contention within Doors, and great Murmurings and Diſcontents without; and in this I was not diſappointed.

But before the Opening of this Seſſion, my Lords, we were in a very different Situation. Our Negotiations, with *Spain* at leaſt, were, thank God! at an End. A War was actually declared, which was what all, but a very few amongſt us, had long and ardently wiſhed for; and this Nation was in a Way, by which we have never failed doing ourſelves Juſtice, when our Arms were prudently and vigorouſly conducted. From this Situation, I expected to ſee nothing, during this Seſſion of Parliament, but Concord and Unanimity within Doors, and Joy and Acclamations without. I expected to hear nothing of paſt Meaſures, eſpecially from thoſe who could not be inſenſible of the Diſcontents their paſt Meaſures had occaſioned. I expected nothing but a moſt cordial and unanimous Concurrence in proper Meaſures for enabling his Majeſty to convince our Enemies, that we are better Fighters than Negotiators; and that though they had for many Years eluded the Force of our Rhetoric, they ſhould be unable to elude, for as many Months, the Force of our Arms.

Theſe, my Lords, I ſay, were my Expectations before the Opening of this Seſſion of Parliament, and in theſe, I can aſſure your Lordſhips, I took great Delight. But thoſe who had the Adviſing and Drawing up of this Speech now under our Conſideration, have, I find, taken the very firſt Opportunity to diſappoint me in my Hopes. Inſtead of applying to us in a modeſt, prudent, and conciliating Manner, for thoſe Supplies that may be neceſſary for carrying on the War; they have begun with throwing unjuſt and ill-grounded Reflections upon their Country, and upon all thoſe that oppoſe the fruitleſs and deſtructive Meaſures they took for preventing it: Meaſures, which every one foreſaw would be fruitleſs, before the Event ſhewed them to be ſo; and Meaſures, which, in the mean Time, ruined the Trade, exhauſted the Treaſure, and expoſed the Character of their Couutry.

This, my Lords, to me looks as if they were more ſollicitous about juſtifying their Pacific Meaſures, than they are about meriting the Approbation of their Country as to their Warlike; and this, I muſt ſay, is but a bad Omen of our future Succeſs, if they be entruſted with the Conduct of the War; for nothing

nothing can contribute more to the Juſtification of their late Pacific Schemes, than an unfortunate Iſſue of the War we are now engaged in.

I ſhall grant, my Lords, that an Advice or Caution againſt Diviſions, Heats, and Animoſities, has been often repeated to us in Speeches from the Throne; and I do not at all wonder at it, for nothing is ſo like one Miniſter as another Miniſter. Miniſters muſt always be, they ought to be, the Adviſers of the King's Speech to his Parliament. As great a Man, and as good a Judge of our Conſtitution, as ever ſat in this Houſe, often gave it as his Opinion, that if Miniſters were not, they ought to be the Adviſers of every Speech the King makes from the Throne, and were anſwerable for every Expreſſion made uſe of upon ſuch Occaſions; therefore we are not to be ſurprized at the frequent Repetition we find of this Caution againſt Heats and Animoſities; for Miniſters are apt to look upon every Oppoſition to their Meaſures as an Animoſity; and peeviſh Miniſters often prevail with their Maſter to declare it ſo from the Throne; but however this may ſerve the Peeviſhneſs of a Miniſter, it is of great Diſadvantage to the Crown, becauſe it engages the King in the Party with his Miniſter, which is very ſeldom either the honeſteſt or moſt numerous Party in the Kingdom.

For this Reaſon, my Lords, I ſhall never think it very dutiful in a Miniſter to put ſuch a Caution in the Mouth of his Sovereign; and to put ſuch a Caution or Advice into the King's Speech, at a Time when there neither is, nor has been, any Diviſion, Heat, or Animoſity, in the Kingdom, but ſuch as have been occaſioned by his Meaſures, I ſhall always think, in ſome Degree, criminal. In former Reigns, particularly in King *William*'s Reign, there was ſome Reaſon for the Sovereign's giving a Caution to his Parliament againſt Diviſions, Heats, and Animoſities, becauſe there were contending Parties in the Kingdom, which no way proceeded from any public Meaſures purſued by the Miniſters: but, in this Reign, there have been no ſuch Parties; and yet, theſe Exhortations have been oftner made uſe of in this Reign, than in any former: I think they have been in the Speech at the Opening of every Seſſion ſince the famous *Exciſe Scheme*, except the firſt Seſſion of this Parliament, when the Complexion of the other Houſe was not perhaps ſo well known as it was ſoon after.

Who was the Author or Drawer-up of the Speech now under our Conſideration, I do not pretend to know; but in this Houſe, my Lords, it is certain, we are not to ſay, the King was: We muſt ſuppoſe it was ſome of his Majeſty's Miniſters; and, conſidering there is now the greateſt Unanimity that, I believe, ever was in this Nation, conſidering there has

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not lately been any Diviſion, Heat, or Animoſity in the Kingdom, unleſs that Oppoſition be called ſo, which was made to their late Pacific Schemes, I cannot think it was right or modeſt in them, to put thoſe Expreſſions in his Majeſty's Speech, which are now found fault with. The noble Lord who ſpoke laſt but one, ſays, they do not relate to the preſent Time, or to any particular Meaſure. I muſt beg Pardon to differ from him, tho' I am far from pretending to be ſo good a Judge of Language as he is. The Expreſſions both in the Speech, and in the Addreſs propoſed, plainly relate to the preſent Time. His Majeſty ſays, *the unhappy Diviſions amongſt my Subjects*, are *the only Hopes of the Enemies to my Government:* Do not theſe Words, does not the Word, *are*, in particular, relate to the preſent Time? Again, with regard to the Addreſs propoſed, can we with any Propriety ſay, that nothing ſhall be wanting on our Part to heal up our Diviſions, if there are none ſuch now ſubſiſting in the Kingdom? Can we ſay, that his Majeſty had *any Occaſion* to repeat his Admonitions, if our Diviſions are all entirely healed up, and no ſuch thing as any Heats or Animoſities in the Kingdom? As to the Meaſures, my Lords, which thoſe Expreſſions were deſigned to relate to, I ſhall not pretend to determine; but I know of no public Meaſure that has been lately oppoſed with any Sort of Warmth, but our Negotiations with *Spain*, and the Convention, that was the unhappy Iſſue of thoſe Negotiations; and I cannot think it right to ſay, that thoſe who oppoſed theſe Meaſures, or indeed any Meaſures, were induſtrious Fomenters of Heats and Animoſities, which is expreſly ſaid both in the Speech, and in what the noble Lord has propoſed to be our Addreſs by way of Anſwer to that Speech. In this Country, and by our Conſtitution, whoever thinks any public Meaſure inconſiſtent with the Happineſs of his Country, has a Right, nay, he is in Duty bound, to take every legal Method he can think of, to warn the People of their Danger: He is not, for that Reaſon, to be called a Fomenter of Heats and Animoſities; No man will call him ſo, but a peeviſh aſſuming Miniſter, who, by a long Poſſeſſion of too much Power, begins to think, that no Man in the Kingdom ought to oppoſe his good Will and Pleaſure.

I muſt likewiſe obſerve, my Lords, that I differ from the ſame noble Lord in another Thing he was pleaſed to advance. I muſt think, that a Diviſion between the People of one Side, and the Miniſters of the other, is ſuch a Diviſion as may exiſt, even in this Country. I ſhall grant, that Miniſters muſt always have a Party for their Support; but when that Party conſiſts of Men that liſt themſelves in the Miniſter's Party, not becauſe they approve his Meaſures, but becauſe

cauſe they receive his Pay, I cannot look upon them as any Part of the People: I muſt look upon them, as well as him, as the Enemies of the People; and the more of them he has in his Pay, the more criminal he muſt always be. If ſuch a Miniſter and ſuch a Party ſhould ever happen, to our Misfortune, to exiſt in this Kingdom, they would, it is true, be the King's Subjects; but, like other Criminals, they would be ſuch Subjects as ought to be hanged. I ſhall alſo grant that, whilſt our Conſtitution remains entire, no ſuch Miniſter can long ſtand his Ground in this Kingdom; becauſe, if our Parliament ſhould be allowed to ſit, and if both Houſes ſhould continue as incorrupt as, I hope, they are at preſent, ſuch a Miniſter would ſoon, by a Parliamentary Proſecution, be brought to what he deſerved: But we know that ſome Miniſters have found Means to govern, or rather to oppreſs the Nation for ſeveral Years, without any Parliament at all; and others have done the ſame Thing, by means of a Penſionary Parliament. Therefore, ſuch a Diviſion may exiſt even in this Country, though it has never yet long exiſted: Theſe over-grown Miniſters have, generally hitherto, fallen a Sacrifice to their own Inſolence and Ambition, ſoon after the Body of the People declared againſt them; but the Misfortune is, that the Sovereign has ſometimes been overwhelmed in the Ruins.

I ſhall always, my Lords, be ready to judge charitably of other Mens Conduct, either in public or private Life. I ſhall always be ready to ſuppoſe, that Men act from right Principles, and that they at leaſt think they are doing what is right; but this Rule can take Place only in Caſes of a diſputable Nature. If a Highway-man or Pick-pocket ſhould tell me, that he thought he did People a Service by robbing them or picking their Pockets, or by holding their Hands and preventing their being able to defend themſelves, or ſecure the Villains that plundered them, I believe no Charity would oblige me to believe ſuch a one to be an honeſt Man; and much leſs would Complaiſance prevail with me, or a Reward induce me, to call him ſo. In public Life, it is the ſame: When a Miniſter engages in no Meaſures but what may be ſuppoſed to be for the Public Good, Charity may induce me to believe, that he thinks he is doing right, tho' I differ from him in Opinion; and ſuch a Miniſter, tho' his Meaſures be found fault with by ſome, yet he may depend upon having always a great Part of the People of his Side; but when a Miniſter engages in ſuch Meaſures as evidently tend to the Ruin of his Country, there is no Room for Charity, one muſt believe him to be either an egregious Fool, or an arrant Knave.

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This, my Lords, muſt be every honeſt Man's Way of judging, in Caſes that admit of no Diſpute; but, even in Caſes that are diſputable, tho' Charity obliges me to believe that Miniſters think their Meaſures calculated for the Good of their Country, yet, if I think otherwiſe, I am obliged to oppoſe them, and may take ſuch legal Methods as I think fit, to prevent or defeat them, without deſerving to be called a Fomenter of Heats or Animoſities. This was the Caſe, with regard to the late Convention; It was thought, by many, to be a moſt ſcandalous and deſtructive Treaty: I thought ſo as ſoon as I ſaw it: I think ſo ſtill; for I do not think myſelf in the leaſt included by the ſide-wind Approbation it met with. A Treaty's being approved by a Majority, in Parliament, does not oblige the Minority to approve of it. Your Lordſhips have all a Right to ſhew that you diſapprove of what meets with the Approbation of the Majority, and to leave a Teſtimony of your Diſapprobation upon Record, Nay, even a future Parliament is not obliged to approve of what, perhaps, met with a very general Approbation in the preceding. The Treaty of *Utrecht* was approved of by a Majority in both Houſes of Parliament. I remember, I then diſapproved of it, and gave my Sentiments very freely in this Houſe againſt it; and I remember the Reward I met with for ſo doing. That very Treaty was in a future Parliament, ſo highly diſapproved of, that ſome of thoſe who had the chief Hand in making it, were puniſhed by Parliament; and others had, perhaps, been more ſeverely puniſhed, if they had not fled from Juſtice. This, my Lords, may perhaps be the Fate of the Convention in ſome future Parliament, tho' the Father of it ſeems now extremely fond of his Child; for I cannot but look upon his Majeſty's Speech, and the Addreſs now propoſed, as a ſecond Approbation of that Convention; I muſt think them deſigned as a new Triumph over thoſe that oppoſed it, which can give no great Joy to the Nation, whatever it may do to the Father of the Convention; and therefore I wiſh that, in order to make his Country rejoice as well as himſelf, he would hereafter take as much care to triumph over thoſe that broke it, as he now takes to triumph over thoſe that oppoſe it.

This ſecond Approbation, this new Triumph, I ſhould have been eaſy about, I ſhould have given myſelf no Trouble in oppoſing it, if I had not thought it an Encroachment upon the Conſtitution of my Country, and an Impoſition upon my Royal Maſter. I think it a moſt dangerous Encroachment upon the Freedom of our Conſtitution, to have the legal Oppoſers of any public Meaſure repreſented as Fomenters of Heat and Animoſities, and Promoters of Diviſions among the

the People. If they had been guilty of any illegal or violent Practices, there might have been ſome Room for giving them ſuch hard Names; but, as no ſuch Practices have been lately attempted, it muſt be allowed, by every one who underſtands our Conſtitution, to be a downright Miſrepreſentation; and it is a moſt dangerous Impoſition upon our Sovereign, to make him the Author of ſuch a Miſrepreſention. I muſt likewiſe look upon it as a moſt dangerous Impoſition, to make him believe, that there are unhappy Diviſions, or any Diviſions, amongſt his Subjects, from whence his Enemies can have the leaſt Room to hope for Succeſs. I wiſh they may have no other Foundation to build their Hopes on; for, if they have not, they will ſoon ſee that they have nothing to hope for, but from his Majeſty's Juſtice and Moderation. Ann. 13 Geo. II. 1739.

Whatever Diſputes our pacific Meaſures occaſioned, and theſe were the only Diſputes that can be ſaid to have produced any Diviſions, or any Thing like Heats or Animoſites amongſt us, they are all now happily ended by his Majeſty's Declaration of War. That Declaration, my Lords, I muſt join with a noble Lord that ſpoke ſome Time ago, in applauding. I think it is extremely right: It is well and ſtrongly worded: The Facts are well choſen, and the Thoughts expreſſed with great Energy; but I muſt obſerve, that it is a Sort of Summary of the Arguments made uſe of laſt Year againſt the Convention, and Part of it, I believe, expreſſed almoſt in the very Words of the Proteſt ſigned by many of your Lordſhips upon that Occaſion, and entered upon the Journals of this Houſe, as a Teſtimony to Poſterity, of your having diſapproved of what was then agreed to by a Majority. This Declaration, my Lords, has given full Satisfaction to every Man that was diſpleaſed with our former pacific Meaſures; and ſurely, no Man can ſuppoſe, that it is diſagreable to thoſe that adviſed it. It is therefore unjuſt to ſay, that there are any Diviſions in this Nation: It was wrong to ſay ſo to his Majeſty: It was more wrong to adviſe him to ſay ſo in his Speech from the Throne; and it would be ſtill more wrong in us to confirm that Miſrepreſentation, by any Sort of Inſinuation in our Addreſs.

War, my Lords, was what the whole Nation, except a very few, long ſince deſired. The Few that were againſt it have done what was their Duty: They have yielded to the general Voice of their Country; and the War is now declared. I have already ſaid, and I muſt again ſay, that I thank God for it; for I think it a moſt providential War for this Nation. It could be nothing but Providence that could ſo harden the Hearts, or rather blind the Underſtandings of the *Spaniards*, as to make them refuſed or neglect to perform, on their Part, a Treaty which was both honourable and advantageous

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advantageous for them, but moſt inglorious and deſtructive for us. To us it would have been moſt unlucky, if they had paid the Sum ſtipulated by that Treaty. It was a Providence moſt propitious to this Nation, that put them into a Humour to hold us in ſuch Contempt as to refuſe making that Payment, which they had ſo ſolemnly promiſed; and as Providence has been favourable to us in forcing us into the War, I hope it will be as favourable to us in the Proſecution. It is hardly poſſible the Event ſhould be unfortunate for this Nation, unleſs we render it ſo by our own Conduct; and as an uncorrupt and independant Parliament is the beſt Check upon a Miniſter's Conduct, I ſhall look on it as a bad Omen of our future Conduct, if we ſhould, in this firſt Seſſion, after the Commencement of the War, ſhew ſo much Complaiſance to any Miniſter, as to confirm a Miſrepreſentation made by him to the Crown, eſpecially as that Miſrepreſentation is of ſuch a Nature, that, if it be believed, it muſt render our Enemies more obſtinate, and our Friends leſs ready to join in any Alliance with us.'

The Lord *Chancellor.*

'The Lord *Chancellor then again roſe up and obſerved,* That although an Objection had been made to ſome Part of the noble Lord's Propoſition for an Addreſs, and a long Debate had enſued, yet no Motion had been regularly made for an Amendment; therefore, he thought it his Duty to take Notice, that if they inſiſted upon their Objection, it would be neceſſary to mention the Words to be left out, and to think of ſome Words to be put in their Stead; after which the Queſtion he was to put, would be, Whether the Words propoſed to be left out ſhould ſtand Part of the Motion.'

The Lord *Bathurſt.*

The Lord *Bathurſt.*

'My Lords, the Words objected to, have been already mentioned, and I do not think it neceſſary to propoſe any Words to be put in their Stead, till the Queſtion be firſt put, Whether or no they ſhall ſtand Part of the Motion. If that Queſtion be carried in the Negative, it will then be Time enough to think, whether any, and what Words ought to be inſerted in the Room of thoſe left out. This, I think, my Lords, is the Parliamentary Way of Proceeding; and the Objections have been already ſo fully explained, and the Reaſonableneſs of them ſo ſtrongly enforced, that I think it unneceſſary for me to add any Thing further upon the Subject. What the next Queſtion may be, I ſhall not pretend to ſay, nor is it neceſſary I ſhould. Perhaps it may be, To Addreſs his Majeſty to know who adviſed him to put into his Speech

Speech that Paragraph, which has been found fault with in this Debate. Even this would be Parliamentary; but whether your Lordſhips will think proper to go ſo far, I do not know. However, my Lords, to obviate the preſent ſeeming Difficulty, I ſhall make you the Motion for an Amendment, in Form, thus: That the Motion made by the noble Lord, ſhould be amended by leaving out the Words, *That it gives us inexpreſſible Concern*, &c. as far as the Words, *That we are determined.* ——— Ann. 13 Geo. II. 1739.

The Earl of *Iſla*.

'My Lords, the noble Lord upon the Wool-Sack did not find fault with your Lordſhips Manner of Proceeding: He only mentioned what was proper to be done; and when there is any Defect or Omiſſion as to the Form of your Proceedings, it is his Duty to acquaint you with it, and to inform you of what ought to be done. I ſhall grant, it is not abſolutely neceſſary to mention before-hand, whether any, and what Words are to be put inſtead of thoſe propoſed to be left out; but it is uſual, and even Candour ſeems to require it, becauſe from thence, ſeveral Lords may determine how to vote upon the firſt Queſtion. The Earl of *Iſla*.

As to the Words objected to, I cannot, for my Part, ſee the leaſt Occaſion for leaving them out. I even think it neceſſary to keep them in, I ſhall admit, my Lords, that the late Conduct of *Spain*, eſpecially their Non-performance of what they promiſed by the late Convention, has rendered us unanimous for War. But War or no War, was not the only Diſpute or Diviſion amongſt us. There have been many others, ſome of which ſtill ſubſiſt; and whatever there may be within Doors, I am certain there are ſtill great Heats and Animoſites without. Are there not ſeditious Libels now printed and diſperſed? Are there not malicious Stories ſpread againſt the Government daily? Sometimes it is ſaid, That we are not yet in earneſt as to the War: At other Times it is ſaid, That, notwithſtanding our Declaration of War, we dare not ſtrike a Stroke. Many ſuch falſe and ſcandalous Opinions are with great Induſtry propagated. All the Meaſures of our Government are miſrepreſented to this very Day. Even the Proceedings of this Houſe are libelled, not only in Converſation, but in Print. Is not every Lord ſenſible of this? Do not your Lordſhips all know it? And in ſuch Circumſtances, was it not extremely proper for his Majeſty to caution us againſt Diviſions, Heats, and Animoſities? Will it not be neceſſary for us to declare in our Addreſs, That we ſhall endeavour

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endeavour to avoid adding Fuel to the Heats and Animoſities without Doors, by our Diſputes and Diviſions within ?'

Diviſion in the Queſtion.

The Queſtion was then put, and paſſed in the Affirmative, Contents 68, not Contents 41, and the Addreſs preſented the next Day, was conceived as follows:

Moſt gracious Sovereign,

Lords Addreſs.

'We your Majeſty's moſt dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament aſſembled, beg Leave to return your Majeſty our ſincere and humble Thanks for your moſt gracious Speech from the Throne.

The great Regard, which your Majeſty has expreſſed for the Sence of both Houſes of Parliament, in your Proceedings with the Court of *Spain*, is a Continuance of that Royal Goodneſs, and Concern for the true Intereſt of your People, which we have ſo often experienced; and your Majeſty's Deſire to have the Advice and Aſſiſtance of your Parliament, as early as poſſible, in this important Conjuncture, is a freſh Proof of your real Confidence in your faithful Subjects.

The Juſtice and Neceſſity of the War, which your Majeſty has been pleaſed to declare againſt *Spain*, muſt be as demonſtrable to all the World, as the violent and intolerable Methods practiſed by that Nation, to interrupt and diſtreſs the Navigation and Commerce of theſe Kingdoms, are notorious; and it is the higheſt Aggravation of this offenſive and inexcuſable Conduct, that it has been obſtinately purſued, in Breach of the moſt ſolemn Engagements, and in Defiance of the higheſt Obligations of Friendſhip and good Offices. But ſince *Great Britain* has been thus unavoidably called forth to Arms, we eſteem it our peculiar Felicity, that we have a Prince upon the Throne, who, with paternal Tenderneſs, joins in the juſt Reſentment of an injured Nation; and whoſe Magnanimity and Steadineſs are equal to the glorious Cauſe, in which he is engaged.

On this Occaſion, the unfeigned Tender of our Lives and Fortunes is no more than is due to your Majeſty, and our Country; and we do, from the Bottom of our Hearts, give your Majeſty the ſtrongeſt Aſſurances, that we will zealouſly concur in all ſuch Meaſures, as may forward your Preparations, and enable you to carry on the War with that Spirit and Vigour, which truly becomes the *Britiſh* Name.

Your Majeſty's Goodneſs in acquainting us from the Throne, that you have augmented your Forces by Sea and Land, purſuant to the Power given you by Parliament, with all the Moderation that was conſiſtent with thoſe deſireable Ends, which

which you, in your Royal Wiſdom, have pointed out to us, is an Inſtance of your Majeſty's gracious Diſpoſition to avoid bringing any unneceſſary Burdens upon your People: And though we cannot flatter ourſelves, that a State of War will not be attended with great Expences, and ſome Inconveniencies; yet, when it is undertaken, not to gratify the Views of reſtleſs Ambition, but to aſſert and maintain the Honour and juſt Rights of your Majeſty's Crown and Kingdoms, we doubt not, but thoſe powerful Motives, will induce all your Subjects to undergo with Cheerfulneſs, whatever is neceſſary in the Proſecution of it. Ann. 13 Geo. II. 1739.

It gives us inexpreſſible Concern, that there ſhould be any Occaſion for your Majeſty to repeat your gracious Admonitions againſt thoſe Heats and Animoſities, which have been fomented throughout the Kingdom. As we cannot but moſt ſeriouſly lament the unhappy Diviſions thereby occaſioned; ſo nothing ſhall be wanting on our Part to heal them, by promoting that good Harmony and Unanimity, which are ſo neceſſary at this Juncture: And we truſt in God, that any Hopes or Views formed by our Enemies upon ſuch Circumſtances, will be found utterly vain and groundleſs; ſince all your Majeſty's Subjects muſt be convinced, that the Security of our Religion and Liberties, and the Safety and Proſperity of theſe Kingdoms, do entirely depend on the Preſervation of your Sacred Perſon and Government, and of the Proteſtant Succeſſion in your Royal Houſe.

In this common Cauſe, Intereſt, as well as Duty, will make us unite; and we do with the greateſt Zeal and Firmneſs, aſſure your Majeſty, that we are determined, at the Hazard of all that is dear to us, to ſupport it againſt all your Enemies both at home and abroad; imploring the Divine Providence to give Succeſs to your Arms, and make them the happy Means of procuring a ſafe and honourable Peace.

His Majeſty's moſt gracious Anſwer.

My Lords, I thank you for this Addreſs ſo full of Duty and Affection to me, and of ſeaſonable Aſſurances of your vigorous Support. The Satisfaction you expreſs in the Meaſures I have taken, is very agreeable to me; and you may depend on my Endeavours to carry on the War in ſuch a Manner, as may beſt anſwer the neceſſary Ends propoſed by it, and the juſt Expectations of my People.

Feb. 23. both Houſes wait on the King with their joint Reſolution.

The Lords and Commons waited on his Majeſty with the joint Reſolution of both Houſes of Parliament, as follows:

Reſolved

Ann. 13 Geo. II. 1739.

Reſolved by the Lords Spiritual and Temporal, and Commons, in Parliament aſſembled, That an humble Addreſs be preſented to his Majeſty, as a dutiful Return to his gracious Deſire of the Advice of his Parliament at this critical and important Conjuncture; and, as a farther Teſtimony of our firm Reſolution vigorouſly to ſupport his Majeſty in the Proſecution of the War againſt *Spain*, humbly to beſeech his Majeſty, never to admit of any Treaty of Peace with that Crown, unleſs the Acknowledgement of our natural and indubitable Right to navigate in the *American* Seas, to and from any Part of his Majeſty's Dominions, without being ſeized, ſearched, viſited, or ſtopped, under any Pretence whatſoever, ſhall have been firſt obtained as a Preliminary thereto.

His Majeſty's moſt gracious Anſwer.

My Lords and Gentlemen, I thank you for this dutiful Addreſs, which is ſo agreeable to former Reſolutions of both Houſes of Parliament. Your unanimous and vigorous Support in carrying on the War, will be the beſt Means of procuring ſafe and honourable Terms of Peace; and you may rely on my utmoſt Care and Endeavour, to obtain effectual Security for the juſt Rights of Navigation and Commerce belonging to my Subjects.

Debate occaſioned by a Meſſage ſent to the Commons only.

Feb. 28. The Earl of *Hallifax* having taken Notice of a * Meſſage ſent from the King to the Houſe of Commons which had not been communicated to the Peers, ſpoke to the following Effect:

The Earl of *Hallifax.*

'My Lords, as no Lord can have a truer Regard for the Honour and Privileges of this Houſe, than myſelf, ſo none can feel a warmer Indignation, whenever any Attack is offered them. To preſerve this ſupreme Council of the Nation in the full Enjoyment of all thoſe Rights derived to us from the Conſtitution of Parliament, is a Duty we owe ourſelves, a Duty we owe our Poſterity, a Duty we owe our Country. The Privileges of this Houſe, and the Liberties of this Nation, are embarked on the ſame Bottom, and we cannot forego the one without endangering the other. Our Acquieſcence under any Affront, (be it the Effect of Deſign, or be it the Effect of Neglect) may in future Times be looked upon as a tacit Reſignation of our Rights, and be made a Precedent to the Diſhonour of this Houſe, and the Deſtruction of this Kingdom.

I cannot,

* See the Debate on this Meſſage in the Houſe of Commons in *Chand.* Hiſt. Ann. 13 Geo. II. 1739. p. 282.

I cannot, therefore, too earneſtly recommend to your Lordſhip's Conſideration, his Majeſty's Meſſage to the Houſe of Commons, which we find in the printed Votes of the 12th of this Month. The Words of the Meſſage are theſe:

GEORGE *R.*

His Majeſty, in further Proſecution of the juſt and neceſſary War, in which he is engaged, having under his Conſideration certain Meaſures, which will occaſion ſome extraordinary Expences not comprehended in the Eſtimates laid before this Houſe, hopes, from the known Zeal of his faithful Commons, that he ſhall be enabled to carry on the ſame, in the moſt effectual Manner.

And does his Majeſty hope leſs from his faithful Lords, that, contrary to all Form and Cuſtom, a Demand of Supply ſhall be made to the Commons ſingly, and your Lordſhips not have the leaſt Cognizance of it? Is it to be ſuppoſed, we are not equally zealous for the Succeſs of the preſent War? Equally deſirous of ſupporting his Majeſty in the juſt Proſecution of it? Or is our Concurrence upon all Occaſions thought a Thing ſo ſure, ſo certain, that the uſual Forms of conſulting us are to be thus thrown aſide? Are we then fallen ſo low, have we ſo long flatter'd a Miniſter, that he can promiſe himſelf our eaſy Compliance, tho' he refuſe us the common Civility due to us, and, anſwering for our Conduct, adviſe his Majeſty to apply to the Commons, as the only Part of Parliament that has any Thing left in its Diſpoſal? The Time has been, my Lords, that the Crown with Honour and Succeſs has conſulted this Houſe; and ſure I am, that I have many Lords now in my Eye, capable of giving ſuch Advice to his Majeſty, as would tend to the Glory of his Reign, and the Welfare of his People.

I am ſorry, my Lords, I cannot charitably ſuppoſe, that this Contempt of us proceeded from a Miſtake and Overſight of the Miniſtry's. As the Houſe of Commons has been the chief Place of Buſineſs this Seſſion, it is poſſible your Lordſhips may be as much out of ſome People's Thoughts, as the Convocation is, but hardly, I believe, out of a Miniſter's. Some little Circumſtances or other are perpetually reminding him of us. Beſides, my Lords, this is not the firſt Indignity of the Kind that has been offered us: In the Year 1726, the ſame Thing happened; and in a Meſſage from his Majeſty to the Houſe of Commons (probably penned by the ſame Hand as this) the Appellation of Parliament was given them, as if the Parliament of *England* were compoſed of their Body only. I muſt, therefore, conſider the preſent

Ann. 13 Geo. II. 1739.

ſent Caſe as a repeated Invaſion of the Privileges of this Houſe, highly reflecting upon the Dignity of every Peer who has a Seat in it. Why this has been thought a proper time for ſuch an Attack, I know not, unleſs it be ſuppoſed, that the Eſſence of a Parliament is loſt. Was this the Caſe, my Lords, (which God forbid!) we ſhould do right, however, to keep up the Forms and Cuſtoms of it, and maintain at leaſt the Appearance of what our Anceſtors enjoyed. If there are any ſuch reflecting Suppoſitions as theſe, if there are any ſuch as flatter themſelves, that a ſucceſsful Corruption has baniſhed the Freedom of Parliament, it is our Duty, my Lords to blaſt ſuch Hopes, and ſhew we are not yet ſuch humble Dependants upon Power, as tamely to offer a Sacrifice of our Rights, whenever a Miniſter pleaſes to call for them. What a melancholy Proſpect ſhould we lay before the Eyes of our Countrymen, whoſe expiring Liberties call loudly for our Aid, if we, the Guardians of their Rights, were no longer to be Protectors of our own!

Who, my Lords, could have been the Author of this Meſſage, I own I am at a Loſs to ſay: It could not have been his Majeſty's: His Royal Favours to ſo many of your Lordſhips, is a ſure Proof of his tender Regard to the Honour and Dignity of this Houſe: It could not have been dictated by any of the Lords of his Majeſty's Privy Council: They never would have adviſed to ſo great an Infringement of their own Privileges; nay, they could not even have had Cognizance of it; if they had; they would have prevented it. Whoſoever's Work it was, thus far I will venture to ſay, my Lords, that it was formed upon that fatal, yet favourite Plan of leſſening the Credit of Parliament. For this dreadful Purpoſe, is it not enough, that every Office and Honour in the Church and State paſs thro' the Hands of one Man? is it not enough, that he has it in his Power to put Virtue to the Teſt, by privately applying that Temptation, which he thinks is moſt likely to ſucceed? Muſt alſo a general Aſſault be given to the whole Body of us; and ſhall the Dignity and Honour of this Houſe be treated as cavalierly as the miſerable Character of any ſingle Dependant?

To avoid the Odium and Reproach ſuch an Invaſion of our Privileges muſt naturally incur, it has been artfully inſinuated, my Lords, that this is Matter of Diſpute between the Commons and us, ſo that, under the Pretence of aſſerting the Rights of one Houſe of Parliament, the Rights of the other may the more eaſily be violated. My Lords, this is no Matter of Diſpute between the Commons and your Lordſhips: We ask nothing new, nothing unprecedented: We don't attack any of their Privileges; we only deſire to remain in the Poſſeſſion of our own;

own: Our utmoſt Ambition in the preſent Caſe is, to be look'd upon as a Houſe of Parliament, and conſulted by his Majeſty as ſuch. When our Rights are thus plain and indubitable, our Caſe becomes national, and the Commons themſelves are intereſted in the Support of it: Whenever the Dignity and Authority of this Houſe is brought low, their Rights and Privileges won't be of long Duration; and whenever any impious Hand dare impoſe Shackles upon us, the ſame Fate will be prepared for every other Part of the Legiſlature. Ann. 13 Geo. II. 1739.

From ſuch a Calamity the uninfluenced Spirit of Liberty that reigns in this Houſe, the independant Sentiments of your Lordſhips, (which neither Intereſt nor Power can wean from your Country's Cauſe) will, no Doubt, ſufficiently protect the preſent Age; but we may lay Foundations for the future Diſhonour of this Houſe, if we let paſs unregarded, ſuch dangerous Precedents, as I apprehended this of his Majeſty's Demand of Supply to the Houſe of Commons ſingly, I muſt therefore, humbly move your Lordſhips, that you would come to this Reſolution, That it is contrary to the Cuſtoms of Parliament, and derogatory to the Privileges of this Houſe, that a Meſſage ſigned by his Majeſty, asking a further Supply for the carrying on a War, ſhould be ſent to the Houſe of Commons ſingly, without taking any Notice of this Houſe.'

The Lord *Delawar.*

'My Lords, I ſhall always be as jealous of the Honour, and of the Rights and Privileges of this Houſe, as any Lord in it; and ſhall be as ready to reſent any Indignity that may be put upon it. But, my Lords, we can put no greater Indignity upon ourſelves, than that of being jealous without Cauſe, or reſenting without Reaſon. In common Life, a Man that is unreaſonably ſuſpicious, and apt to take every Thing as an Affront, is always uneaſy in himſelf, and generally deſpiſed by others. It will be the ſame with your Lordſhips: If you ſhould ſuppoſe you are affronted, when no Affront is deſigned, or inſiſt upon Rights that do not properly belong to you, it will be the moſt effectual Method you can take, for leſſening or annihilating that Reſpect which is due to you, as the higheſt and moſt auguſt Aſſembly in the Nation. It is not by Jealouſies and Suſpicions, or by menacing Reſolutions, that we are to preſerve that Character, which this Houſe has for ſo many Ages deſervedly borne, but by a prudent and ſteady Conduct, and by ſhewing, that in all our Proceedings we have ſincerely at Heart, the Honour of the Crown, the Privileges of the Subject, and the Happineſs of the Nation. The Lord *Delawar.*

Ann. 13 Geo. II. 1739.

I am not only ſurprized, but ſorry, that any Lord in this Houſe ſhould imagine, that his Majeſty, or any one that adviſed him, intended to put an Affront upon this Houſe, by ſending to the Commons the Meſſage which the noble Lord has been pleaſed to mention, without ſending at the ſame Time the like Meſſage to this Houſe. I am convinced, there was no Affront deſigned, and I cannot ſee the leaſt Shadow of Reaſon why any Lord ſhould imagine there was. So far otherwiſe, my Lords, I muſt think it would have been extremely improper to have ſent any ſuch Meſſage to this Houſe, becauſe it relates to nothing but the Supplies for the Service of the enſuing Year. It is the Buſineſs of the other Houſe to grant the neceſſary Supplies, it is from the other Houſe that ſuch Supplies are asked by the Crown, and therefore, it is to the other Houſe, and, I think, to it alone, that Application ought to be made for any additional Supply.

In all the Speeches that have been made from the Throne for many Years paſt, your Lordſhips may obſerve, that our Sovereign has always addreſſed himſelf particularly to the Gentlemen of the Houſe of Commons, when he mentioned the Supplies neceſſary for the current Service. In that Speech which his preſent Majeſty made at the Opening of this Seſſion, he addreſſes himſelf particularly to the Gentlemen of the Houſe of Commons, and tells them, that he has ordered the Eſtimates to be laid before them, and that he hopes they will grant ſuch effectual Supplies as may enable him to carry on the War with Vigour. Was that particular Addreſs to the other Houſe then found fault with? Was it ever found fault with? And yet, I muſt be of Opinion, that we have as much Reaſon, or rather more, to find fault with his Majeſty's addreſſing himſelf upon that Occaſion to the Houſe of Commons ſingly, as we can have, to find fault with his having ſent this Meſſage to that Houſe ſingly.

Our Concurrence, 'tis true, my Lords, is neceſſary for every Article of Supply that can be granted by the other Houſe; but that Concurrence has always been expected without being asked by the Crown. Why therefore ſhould we look upon its not having been aſk'd by the Crown upon this Occaſion, as a Neglect, or as any Sign of Diſreſpect? Nay, if your Lordſhips will but conſider the Words of the Meſſage, you muſt ſee, that his Majeſty could not ſend it to this Houſe. In that Meſſage his Majeſty acquaints his Commons, that he has under his Conſideration, certain Meaſures which would occaſion ſome extraordinary Expences, not comprehended in the Eſtimates laid before that Houſe. Could his Majeſty have expreſſed himſelf ſo to this Houſe? Have we any Eſtimates before us, or was it ever cuſtomary to lay any ſuch Eſtimates before us? The Meſſage therefore, if it had been ſent to this Houſe,

Houſe, muſt have been altered ſome Way or another; and, I confeſs, I am at a Loſs to conceive, how it could have been altered, ſo as to make it proper for being ſent to this Houſe, without inſerting ſome Words that might have created a Jealouſy in the other; and this Jealouſy might, perhaps, have bred a Contention between the two Houſes, that would have been of the moſt dangerous Conſequence in the preſent Conjuncture, Ann. 13 Geo. II. 1739.

This, my Lords, is no groundleſs Inſinuation or Pretence, in order to excuſe the not ſending that Meſſage to this Houſe as well as the other. The ſole Right of granting Supplies is a Right which the other Houſe has always moſt ſtrenouſly aſſerted, and we as pertinaciouſly refuſed to admit. It is a Diſpute that has occaſioned great Heats between the two Houſes as often as it has been revived, and has ſometimes put a full Stop to all public Buſineſs. How fatal this might be in our preſent Circumſtances, I muſt beg your Lordſhips to conſider. We are now, my Lords, engaged in a dangerous War for vindicating the Rights and Privileges of the Nation; and therefore, I muſt beg that every Lord who has a Concern for our Succeſs, would take care to avoid every Thing that may give Riſe to a Conteſt about particular Rights and Privileges amongſt ourſelves. This, I dread, may be the fate of the preſent Queſtion. If we ſhould agree to it, I'm afraid, it will be conſidered as a Claim ſet up by us, that no Article of Supply ought to be demanded of the Houſe of Commons, without demanding it at the ſame Time of us. This I muſt look upon as a new Claim: It is a Claim for which we have no Precedent; and it is a Claim that will, I fear, create a Miſunderſtanding between us and the Commons; for which Reaſon I muſt beg Leave to think the noble Lord's Motion no way proper at preſent; but whether it may be proper to put a Negative upon it, or to put the previous Queſtion, I muſt leave to your Lordſhips Conſideration.'

The Lord *Talbot*.

'When I conſider you, my Lords, as the ſupreme Council of the Crown, and in a yet higher Light, as the hereditary Guardians of the Liberties of a free, brave, and once flouriſhing People, I am ſtruck with ſuch reverential Reſpect, ſuch awful Veneration, that I can ſcarcely give Utterance to my Thoughts in this auguſt Aſſembly. But when I reflect upon the Inſults offered to your Dignity, the Contempt ſhewn to your Authority, that Reverence, that Veneration hath a contrary Effect upon my Mind: Zeal for your Rights, Zeal for the Intereſt of my Country, inflames my Breaſt, and drives from The Lord *Talbot*.

Ann. 13 Geo. II. 1739. from thence every ſelfiſh Conſideration: I am impatient to vindicate your Honour, and eager to violate that Silence, Prudence would always direct me to obſerve.

When I read the printed Votes, by which you were informed of the Tranſaction that gave Riſe to the important Buſineſs of this Day; I read them with Concern, with Aſtoniſhment, with Indignation. I endeavoured to diſcover, what could have occaſioned this Neglect from his Majeſty, this Affront from his Adminiſtration. I thoroughly examined the late Conduct of the Majority of your Lordſhips, and found nothing that could incur the Diſpleaſure of thoſe in Power. Whatever Meaſure they have condeſcended to communicate to your Lordſhips, hath always obtained your Approbation; and, in regard to public OEconomy, to which the Meſſage taken notice of is chiefly relative, tho' it is far from my Intention to flatter you, I muſt ſay, you have never ſhewn a Diſpoſition ſo niggardly, as to oppoſe a ſingle Scheme of Miniſterial Generoſity.

On the contrary, my Lords, you have given indiſputable Proofs of your Contempt for ſordid, national Frugality; You have behaved as if you were perſuaded, the Kingdom abounded as much in Wealth, as the Heads of thoſe, who have, in ſome former Times, had the Management of Affairs, were fertile in Projects to ſquander and conſume it: Nor do you entertain ſuch a Belief without ſubſtantial Cauſe; for it would be abſurd to imagine, 200,000 *l.* could be annually diſtributed among a Part of your Lordſhips, by a Nation which doth not enjoy the utmoſt Affluence. But Merit in every Way deſerves a ſuitable Reward; and tho' a hundred lucrative Employments are poſſeſſed by Members of this auguſt Aſſembly, the Duty expected from them is ſo exactly obſerved, that the greateſt Part is enjoyed with unenvied Reputation.

The Commons have gone great Lengths in excluding your Lordſhips from any Authority to alter Money-Bills, tho' no Aid can be granted, no Taxes impoſed, without your Conſent. They are very expert in explaining, and aſſiduous in contriving Precedents to ſupport this unreaſonable Infringement of your Privileges; and, in this Point, every Relaxation of your own, is a Confirmation of their Power. But, my Lords, what you have hitherto ſcorned verbally to admit, I hope you will diſdain virtually to allow. The whole Nation is concerned in your ſupporting your conſtitutional Rights; for tho' ſome ſhort-ſighted Politicians may imagine, by leſſening you, the Commons will be aggrandized, in Fact it will be found, that every Attempt to ren-

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der you inſignificant, will be a Step towards making the Crown abſolute.

The other Houſe hath been under the Controul of one of its own Members: May it never again be in the like abject State! But ſhould that vile, deteſtable, ſeductive Art, Corruption, ever inſinuate itſelf into that Aſſembly, the Effects may be as fatal, tho' the Means more contemptible, than the Hypocriſy, Sagacity, and Intrepidity of *Cromwell*. If a Majority in that Houſe, inſtead of being really the Repreſentatives of the Nation, ſhould be elected by not more than 50,000, out of *ten Million* of People, and theſe 50,000, the Dregs of the Populace: If a Miniſter, by the Aſſiſtance of a venal Crew, the direct Repreſentatives of their infamous Conſtituents, ſhould be ſecure of carrying every Point, according to his own Inclination: If by them he ſhall be able to fruſtrate every Inquiry into public Meaſures: If any Motion to prevent a mercenary Contagion from extending its baneful Influence over thoſe entruſted with the Liberties of their Country, ſhall be inſolently rejected: If a Law in the Statute Books for that ſalutary Purpoſe, ſhall be notoriouſly violated, and explained contrary both to the Spirit and Letter of ſuch a Law; what will be the Fate of this unhappy Nation, if your Lordſhips are not then in a Condition to protect your Country?

I beg Pardon for having treſpaſſed ſo long upon your Loreſhips Time. The Motion is ſo moderate, ——— a mere Aſſertion of indubitable Rights, ——— that, I think, no Method of evading it ought to be uſed. Indeed, if Strength of Argument, enlivened by all the Force of Eloquence, and Truth delivered with Dignity, becauſe dictated by a Heart whoſe predominant Paſſion is the Public Welfare, can have any Weight here, the Fate of the noble Lord's Motion may be ſafely reſted upon what he hath ſo fully, ſo honeſtly urged in Support of it.'

The Lord *Chancellor*.

' Before we can with any Propriety enter ſeriouſly into the Debate, 'tis neceſſary we ſhould well underſtand the Nature of the Queſtion before us. I ſhall not, therefore, at preſent trouble you with entering into the Merits, I ſhall only take the Liberty to ſtate the Queſtion, according as it appears to me. His Majeſty, in his Speech from the Throne, at the Opening of the Seſſion, demanded of the other Houſe a Supply for the Service of the enſuing Year, and told them he would order Eſtimates of the particular Services to be laid before them. Thoſe Eſtimates were ac- The Lord *Chancellor*.

Ann. 13 Geo. II. 1739.

cordingly laid before them; but then, as we are now engaged in a War, and as his Majeſty, it ſeems, is reſolved to undertake, if poſſible, ſome ſecret Expeditions againſt the Enemy, an Account of which neither can nor ought to be made public, a greater Supply will be neceſſary than can appear by the Eſtimates laid before the other Houſe, and this his Majeſty thought himſelf obliged to acquaint them of; becauſe, otherwiſe, he could not have expected any greater Supply than appeared neceſſary by the Eſtimates he had ordered to be laid before them, and conſequently he could not have undertaken any ſecret Expedition againſt the Enemy, however probable the Succeſs might have appeared, or however expedient future Accidents or Circumſtances might have rendered it for him to engage in ſuch a one.

The Meſſage, therefore, which is now under your Lordſhips Conſideration, I can look upon in no other Light, than as a Meſſage to the other Houſe, to acquaint them, that ſome Expences would be neceſſary, of which no Eſtimate could be made; and in this Light I muſt look upon it as a Sort of Eſtimate, and muſt think, that your Lordſhips have as much Reaſon to complain, that all the Eſtimates for the particular Services of the enſuing Year, were not communicated to you, as well as to the other Houſe, as you have to complain, that this Eſtimate was not communicated to you at the ſame Time it was ſent to the Commons.'

The Lord *Carteret*.

The Lord *Carteret*.

'My Lords, I am ſurprized to hear the noble Lord that ſpoke laſt, ſtate the Caſe as he has done. It is not poſſible to look upon this Meſſage in any Light that can make it bear the leaſt Reſemblance to an Eſtimate. It is a Meſſage for a new Supply; a Supply ariſing from new Meaſures, which were not ſo much as hinted at in his Majeſty's Speech from the Throne. Let us, my Lords, but conſider the Words of his Majeſty's Speech, and we muſt conclude, that the Meſſage now under our Conſideration, can have no Relation to any Supply thereby demanded. His Majeſty, when he addreſſes himſelf to the Houſe of Commons, tells them, that he has ordered Eſtimates for the Service of the enſuing Year, and likewiſe Accounts of the extraordinary Expences of the current Year, as alſo an Eſtimate of the Charge of raiſing a Body of Marines, to be laid before them; and then he ſays, he cannot doubt but they will grant ſuch effectual Supplies, as may enable him to carry on the War with Vigour. Can the Word, Supplies, here relate to any Thing, but the Eſtimates and Accounts, which his Majeſty had ordered to be laid

laid before them? Can any one ſuppoſe, his Majeſty meant, hat it ſhould relate to a Charge of which no Eſtimate or Account could be laid before them? Or could any Lord in this Houſe ſuppoſe, from what his Majeſty there ſaid, that any Meaſures were to be undertaken, which were not to be mentioned in any of the Eſtimates? If any ſuch Meaſures were then thought on, they ought to have been mentioned in his Majeſty's Speech from the Throne: If they have ſince fallen under Conſideration, his Majeſty ſhould have been adviſed to have come again to the Houſe, and acquainted us of it by a new Speech, or at leaſt he ſhould have been adviſed to have communicated it to both Houſes by Meſſage. If his Majeſty had, by either of theſe Methods, told us, that he had under his Conſideration ſuch Meaſures as would require an additional Expence, but could not be communicated, I am ſure, I ſhould not, I believe no Lord in this Houſe would have deſired a Diſcovery.

It is the Buſineſs of the other Houſe, my Lords, to conſider and dtermine, what Supplies may be neceſſary for the public Service: It is their Buſineſs to conſider and determine, what Ways and Means may be moſt proper for raiſing thoſe Supplies; and we are to give our Concurrence, if we think they are in the Right. But as to the Meaſures or Services which make thoſe Supplies neceſſary, it is our Buſineſs to conſider and determine, whether or no they are proper: It is this Houſe that his Majeſty ought chiefly to conſult upon ſuch Occaſions; therefore no Supplies ought to be either asked or granted, till the Meaſures or Services have been communicated, or at leaſt mentioned to this Houſe, either by Speech or Meſſage; and as from the very Words of the Meſſage, it appears to be a Meſſage for a new Supply, which is to be applied to Services or Meaſures, that were never before ſo much as hinted to this Houſe, it ought for this Reaſon to have been communicated to this Houſe, to the End that we might have had ſome Opportunity of approving or diſapproving of the Meaſures; and, at the ſame Time, it ought to have been communicated to the other Houſe, to the End that they might have provided the Supplies neceſſary for carrying on thoſe Meaſures.

Having thus ſhewn, my Lords, that it is not poſſible to put ſuch a Meaning upon this Meſſage, as has been put by the noble Lord that ſpoke laſt, I ſhall not trouble your Lordſhips at preſent with entering farther into the Debate, becauſe I have as yet heard very little ſaid againſt the Motion; but, if I ſhould hear any material Objection made to it, I ſhall beg Leave to riſe up again, in order to approve of the Objections, if I think them ſuch as ought to be approved of, or to give them ſuch an Anſwer, as I may think ſufficient for preventing their having any Influence in this Debate.'

Ann. 13 Geo. II. 1739.

The Earl of *Cholmondely*.

The Earl of *Cholmondely*.

'My Lords, however proper or neceſſary the Motion, now under our Conſideration may be, I wiſh that noble Lords would, when they make any Motion, keep cloſe to the Argument, and avoid launching out into perſonal Invectives. The introductory Speeches that have been made in Favour of this Motion, look'd, in my Opinion, more like an Introduction to an Impeachment, than an Introduction to a Motion for vindicating the Privileges of this Houſe. If our Liberties are expiring, my Lords, or if any Attack has been lately made upon them, why does not ſome one of the noble Lords that think ſo, ſtand up in his Place, and impeach thoſe who are carrying on, or contriving any ſuch Attack? It is what every Lord has a Right to do: It is what every Lord ought to do. Inſtead of bewailing upon every Occaſion the Danger our Liberties and Conſtitution are expoſed to, by ſecret Machinations or fraudulent Practices, they ought to explain thoſe Machinations and Practices to the Houſe, and they ought to conclude with an Impeachment in Form againſt the Perſons they ſuppoſe to be the Authors of ſuch wicked and dangerous Deſigns.

I hope, my Lords, I have as great a Concern for the Liberties of the Nation, and for the Rights and Privileges of this Houſe, as any Lord that has the Honour of having a Seat in this auguſt Aſſembly: If I thought, that any Attack had been made upon either, no Lord ſhould be more ready than I, to concur in Meaſures for bringing the guilty Authors and Abettors to condign Puniſhment. But I do not think, that the leaſt Attack has been lately made upon either; and in the preſent Caſe, I do not think it can be ſuppoſed, there was any Deſign of attacking the Rights and Privileges of this Houſe. His Majeſty, in his Speech from the Throne, deſired ſuch Supplies as might be effectual for enabling him to carry on the War with Vigour; and if any one of thoſe Supplies be of ſuch a Nature, as not to admit of an Eſtimate, can we ſuppoſe, that his not acquainting us of this, was deſigned as a Violation of any of the Privileges of this Houſe? It is well known to every Lord here, that no Eſtimate is ever laid before us. We generally agree, or we may diſagree, to the Supplies granted by the other Houſe, without ſeeing any Eſtimate. Whereas in the other Houſe, a particular Eſtimate for each particular Service is always laid before them, and they never grant a larger Sum for any particular Service, than appears from the particular Eſtimate to be neceſſary; nor do they grant any Sum for any particular

ticular Service, without having an Eſtimate for that particular Service previouſly laid before them. Therefore, when a Service was to be incurred, for which no particular Eſtimate could be made, it was neceſſary for his Majeſty to tell them ſo; but in my Opinion, it would have been both improper, and contrary to the Uſage of Parliament, to have ſaid any Thing of it to this Houſe in his Majeſty's Speech, and much more ſo, to have acquainted us of it by a particular Meſſage. It would very probaby have given the Alarm to the other Houſe, as if his Majeſty deſigned, that we ſhould interfere with them in granting the neceſſary Supplies; and therefore, I think, his Majeſty's not communicating this Meſſage to us, was ſo far from being any Sign of Diſreſpect towards us, that it was a new Teſtimony of his Wiſdom, and of the great Regard he has to the Uſage of Parliament, and to the Peace and Happineſs of his People. Ann. 13 Geo. II. 1739.

But ſuppoſe, my Lords, I were of Opinion, that this Meſſage ought to have been communicated to this Houſe at the ſame Time it was communicated to the other; yet, as I am fully ſatisfied, that no Affront was intended to be put upon us, by not ſending this or ſome ſuch Meſſage to us, at the ſame Time it was ſent to the other Houſe, I could not, in our preſent Circumſtances, concur with the Motion now before you; becauſe I ſhould be afraid, that our coming to ſuch a Reſolution might interrupt that Unanimity, which is ſo neceſſary for bringing the War we are now engaged in, to a happy and ſpeedy Iſſue; and when the noble Lord conſiders this, I hope he will not inſiſt upon having this Motion put to the Queſtion.'

The Lord *Onſlow*.

'My Lords, I cannot pretend to be ſo nice a Judge of the Rights and Privileges of this Houſe, as ſome of your Lordſhips may be; but I cannot think, that an Application to the other Houſe ſingly, in any Matter that relates to the Supply, is ſuch a direct and open Violation of the Rights and Privileges of this Houſe, as ought to prevail with us, to come to a Reſolution that may raiſe Heats and Animoſities about particular Rights and Privileges amongſt ourſelves, when the Rights and Privileges of the whole Nation are in ſo much Danger, I am perſuaded, an Account of this Motion will be looked on as very good News by the late Duke of *Ormond* at the Head of his Rebel-Army in *Spain*. From the very Motion itſelf, I believe, both he and the Court of *Spain* will conceive Hopes of Succeſs in their intended Invaſion; and if they conceive ſuch Hopes for the Motion, what will they not expect, The Lord *Onſlow*.

Ann. 13 Geo. II. 1739.

expect, ſhould they hear of its being agreed to? I am for doing nothing that may give them the leaſt Encouragement to attempt an Invaſion upon this Nation, and therefore I ſhall be againſt agreeing to the Reſolution propoſed.'

The Lord *Delawar*.

The Lord *Delawar*.

'My Lords, I was in ſome Hopes, the noble Lord would have been prevailed on to have ſtood up and waved his Motion; but as the Queſtion ſeems to be inſiſted on, and as ſome Lords may be under Difficulties with regard to a Negative's being put upon ſuch a Motion, and yet may be convinced, that the preſent is a very improper Time for our coming to ſuch a Reſolution, therefore I ſhall beg Leave to move, that the previous Queſtion may be put.'

The Lord *Carteret*.

The Lord *Carteret*.

'My Lords, Upon ſuch a Motion as this, I am extremely ſurprized to hear any of your Lordſhips move for the previous Queſtion. The previous Queſtion, my Lords, may in many Caſes be right, but ſurely it cannot be ſo in this. When a Motion is made, which appears to be in itſelf right, but which is neither neceſſary nor proper to be put to the Queſtion at that Time, the previous Queſtion may they properly be moved for, and it is prudent to make uſe of it for waving a Queſtion, which does not then neceſſarily require an Affirmative, and which cannot, in its own Nature, admit of a Negative. But can the Queſtion now before you be ſaid to be of ſuch a Nature? My Lords, if it cannot admit of a Negative, it neceſſarily and immediately requires an Affirmative. It is a Queſtion that affects the Honour of this Houſe, and conſequently the Honour of every Lord in it. If the Honour of this Houſe has been attacked by ſending ſuch a Meſſuage to the Houſe of Commons ſingly, which the previous Queſtion ſuppoſes, will any of your Lordſhips ſay, that we ought not immediately to vindicate our own Honour, at leaſt by ſuch a Reſolution as my noble Friend has been pleaſed to propoſe? Can our agreeing to ſuch a Reſolution be attended with bad Conſequences at this Time, any more than at another? My Lords, it can be attended with no bad Conſequences either to the Nation in general, or to any particular Man. It is ſo prudently drawn up, that it can affect no Perſon in the Kingdom: But if ſuch a Thing could be ſuppoſed, ſhall we allow the Safety of any Subject whatever, to ſtand in Competition with the Honour and Dignity of this Houſe?

We may talk of Impeachments, my Lords, and of the Right that every Lord in this Houſe has, to ſtand up in his Place,

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Place, and impeach whomſoever he ſuppoſes to be guilty; but if it ſhould appear, which I hope, it never ſhall, that the Majority of your Lordſhips have a greater Regard for the Safety of any particular Subject, than for your own Honour, or the Honour of this Aſſembly, I am ſure it would be an imprudent and very ridiculous Step in any Lord, to riſe up and impeach that Perſon before this Aſſembly, even tho' he could bring evident Proofs of his being guilty of the moſt heinous Crimes and Miſdemeanors. In all Caſes of Impeachment, there are ſeveral preparatory Steps or Motions neceſſary, before any Lord can directly impeach; and when ſuch preparatory Motions are diſagreed to by the Houſe, it becomes impracticable for any Lord to proceed to an Impeachment. In the preſent Caſe, if what is now complained of, were of ſuch a heinous Nature, as to deſerve an Impeachment, the firſt preparatory Step would be ſome ſuch Motion as this, and the next would be a Motion for addreſſing his Majeſty, to know who had adviſed him; both which Motions muſt be agreed to, and an Anſwer returned from his Majeſty, before any Lord could ſtand up in his Place, and impeach the Perſon who gave the Advice. But at preſent there is no ſuch Deſign: If there were, the Motion would have been drawn up in much ſtronger Terms. We may ſee, from the Terms in which it is drawn up, that the noble Lord has no other Deſign, than to vindicate the Rights and Privileges of this Houſe; and for this Purpoſe, his Motion will have a good Effect, whatever may be its Fate. Even tho' our agreeing to it ſhould at this Time be prevented by the previous Queſtion, yet the very Motion will, I hope, prevent any Miniſter's daring to ſhew ſuch a Contempt of this Houſe for the future.

This, I hope, my Lords, will be the Conſequence of the Motion, even tho' you ſhould put the previous Queſtion upon it; but if that Queſtion ſhould paſs in the Negative, I muſt beg your Lordſhips to conſider what Effect it may have with regard to your Characters. By putting the previous Queſtion, you admit, that the Motion is in itſelf right: What Reaſon then can be aſſigned for your not agreeing to it? None but the Regard you have for thoſe who have, at preſent, the Honour to be his Majeſty's Counſellors and Adviſers; and will not the cenſorious World from thence conclude, that you have a greater Regard for them, than you have for your own Honour or Reputation? Therefore, if the previous Queſtion ſhould be put, as it muſt be, if inſiſted on, I hope every Lord that thinks the Honour of this Houſe is not in the leaſt affected, by the ſending of this Meſſage to the other Houſe without taking any Notice of this, as well as every Lord, who thinks otherwiſe, will give his Affirmative upon the previous Queſtion, in order that the principal Queſtion,

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on may be put; for thoſe who think the Honour of this Houſe not in the leaſt affected, ought to be for having a Negative put upon the principal Queſtion, in order to vindicate their own Characters; and thoſe who think otherwiſe, ought to inſiſt upon having the principal Queſtion immediately agreed to, in order to vindicate the Honour of this Aſſembly. In a Caſe of Honour, my Lords, there is no Doubt to be admitted of; for no Man can have a true Regard to his Honour, that does not immediately endeavour to vindicate it, in every Caſe where there is the leaſt Suſpicion of its being attack'd

But, my Lords, can any one of your Lordſhips doubt of the Affront that has been put upon this Houſe, in not communicating to us a Meaſure in which the Nation is ſo much concerned? Are we to agree to the Supplies voted by the other Houſe, without knowing any one Reaſon for our ſo doing? The other Houſe will probably, I hope they will, grant a Supply for the Meaſures now under his Majeſty's Conſideration; but how are we to know that there are any ſuch Meaſures under his Conſideration? Are we to take an Information, with regard to his Majeſty's Intentions, from the Commons? God forbid, my Lords, that ever any of your Lordſhips ſhould entertain ſo mean a Thought. What can we think then of this Neglect? Muſt we not think, that we are forgotten by his Majeſty, or, at leaſt, by thoſe who have the Honour to adviſe him? And, if this Houſe ſhould once come to be forgotten by the Crown, it will be forgotten by every Man in the Kingdom. It will be deſerted even by thoſe who then have the Honour, I may ſay the Misfortune of being Members. It will then be attended only by three or four Court-Lords, and perhaps half a Dozen or a Dozen of Prelates; and, if this ſhould ever come to be the Caſe, we may eaſily judge what Weight or Authority it will have among the People.

For this Reaſon, my Lords, I think we are infinitely obliged to the noble young Lords that made and ſeconded this Motion; and, if they have expreſs'd themſelves a little warmly, they ought to be applauded. It is natural for a young Gentleman of any Spirit to grow warm, when he thinks his Honour in the leaſt Degree attack'd. My Lords, it is with Pleaſure I perceive a Spirit of Virtue and Liberty beginning to prevail among the young Lords of this Houſe. Their Example will, I hope, be followed by all the Youth of the Nation; and therefore, I muſt look upon them as the beſt Securities we can have for the Preſervation and Improvement of our own Conſtitution. Old Men may, perhaps, be a little too paſſive: They may ſit ſtill under an Encroachment, rather than expoſe

poſe themſelves to the Danger and Fatigue of oppoſing it; and thus, by ſuffering Encroachment after Encroachment, the Conſtitution may be undone: But, when the Youth of a free Nation are indu'd with a true Spirit of Virtue and Honour, they will take fire upon the firſt Encroachment: They will bear any Fatigue, they will expoſe themſelves to any Danger, rather than allow the firſt to go unpuniſhed, or at leaſt unreſented; and thus, by oppoſing the firſt, they will prevent a ſecond.

It is needleſs, my Lords, to ask a Precedent for our complaining of the Meſſage now under our Conſideration. It is hardly poſſible there ſhould be any one directly in Point. There never was ſuch a Meſſage ſent to both, or either Houſe of Parliament, before the Year 1717. But, I muſt obſerve, that this is not the firſt Affront that has of late been attempted to be put upon this Houſe. In the Year 1726, his late Majeſty was adviſed, in a Meſſage then ſent, to call the other Houſe the Parliament, as if this Houſe had been no Branch of the Legiſlature. This was then properly reſented: Thoſe who adviſed it, were obliged to own it was a Miſtake; and it was, almoſt with Tears in their Eyes, they prevented a farther Reſentment. This is a Precedent for our complaining when any Neglect ſeems to be ſhewn us by the Crown. The two Caſes, I ſhall grant, are far from being parallel; for the preſent Caſe is as much ſtronger than the former, as Facts are ſtronger than Words. In the former Caſe, the other Houſe was, in Words only, called the Parliament; but in the preſent, they are, in Fact, treated as ſuch. They have been ſingly conſulted in a Point of the greateſt Importance and Concern to the Publick, as if we, of this Houſe, had no Share in the Legiſlature or Government of our Country. Therefore, if we had then Reaſon to complain, as the Majority of this Houſe, at that Time, thought we had, the Reaſon we now have, is more cogent, and ought to be more prevailing.

Our Sovereign's addreſſing himſelf, in his Speech, to the other Houſe particularly, when he mentions the neceſſary Supplies, can afford no Pretence or Excuſe for the Neglect now ſhewn to this. In every Speech from the Throne, the firſt Part of it is addreſſed to both Houſes; and, in that, the Meaſures or Services which make the Supplies neceſſary, are mentioned: Being thus informed of the Services, we may judge of them, and may declare againſt them, if we think them improper or inconſiſtent with the Public Good. But with regard to the Services or Meaſures mentioned in this Meſſage, we have had no Information of them, in a Parliamentary Way, and therefore can no Way judge of them, or give his Majeſty any Advice concerning them. If his Majeſty had

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been ſo good as to let us know, that he has certain Meaſures under his Conſideration, which will occaſion ſome extraordinary Expence, not comprehended in the Eſtimates laid before the other Houſe, I ſhould certainly have approved, without enquiring what the Meaſures were, and ſhould have been ready to have concurred in granting a Supply ſufficient for carrying them into Execution, becauſe, I believe, they are right, and ſuch as may contribute to our Succeſs in the preſent War. But, if I had thought otherwiſe, if I had thought that his Majeſty had been adviſed to ſend the Fleets and Armies of this Kingdom upon ſome romantic Expedition, I would have been ſo far from approving, that I ſhould probably have moved for an Addreſs, in order to give his Majeſty proper Advice upon the Occaſion; and, if the other Houſe had granted a Supply for the carrying on of ſuch Meaſures, I ſhould have refuſed giving it my Concurrence in this Houſe. Whereas, in the preſent Caſe, I can neither approve nor diſapprove of the Meaſures; and, if the Grant of a Supply for carrying on Meaſures I know nothing of in a Parliamentary Way, ſhould come up from the other Houſe, I am ſure, I ſhall think myſelf bound in Duty to my King and Country, as well as for the Sake of the Honour of this Houſe, to oppoſe as much as I can our giving our Concurrence to ſuch a Grant.

'Tis true, my Lords, the Eſtimates for the particular Services are not laid before this Houſe; but I hope no Lord imagines, that it is becauſe we have not a Right to examine into the Supplies granted by the other Houſe for anſwering thoſe Services. We may not only examine into them, but we may prevent their having any Effect, by refuſing our Concurrence: We ought to do ſo, when we know nothing in a Parliamentary Way, of the Services for which they were granted; and tho' the Eſtimates for the particular Services are not uſually laid before us, yet our Sovereign, in his Speech from the Throne, at the Opening of the Seſſion, either does, or ought to communicate to us, in general Terms, the Services for which the Supplies are to be granted, and in our Preſence acquaints the other Houſe, that he has ordered the particular Eſtimates and Accounts to be laid before them. Nay, even as to thoſe Eſtimates and Accounts, we may, if we pleaſe, call for them, and may examine particularly into every one of them: 'Twould be our Duty to do ſo, if we ſhould have the leaſt Suſpicion, that any one of them were falſe, or over-charged.

From what I have ſaid, my Lords, I hope, it will appear, that thoſe who adviſed his Majeſty to ſend a Meſſage to the other Houſe, relating to public Meaſures to be undertaken, without taking any Notice of this Houſe, have been guilty of a Violation of our Rights and Privileges, as one, and I

hope

hope I may yet ſay, the ſuperior Houſe of Parliament; and this Violation, 'tis the more neceſſary for us to take Notice of, becauſe it is a Violation of thoſe Parliamentary Forms of Proceeding, which, by our Conſtitution, it has always been thought neceſſary to obſerve. Such a Violation, my Lords, gives me a moſt melancholy Conſideration; becauſe the Subſtance of a Conſtitution of Government muſt be gone, before any one will dare to attack the Forms. Even in the moſt abſolute Governments that have been eſtabliſhed upon the Ruins of Liberty, the Forms of their ancient Conſtitution have been preſerved. The *Romans* retained their Senate and their popular Magiſtrates, even under their moſt arbitrary and tyrannical Emperors; and the Conſent of that Senate ſeemed to be aſked to every public Act; the Election of their Conſuls, their Tribunes, and ſeveral other Magiſtrates, ſeemed to be left to the free Choice of the People; but every one knows, that their Senates always approved what the Tyrant's chief Miniſter dictated, and the People always choſe for their Magiſtrates, the Perſons that were nominated by him; ſo that in Effect the Government was as abſolute, and much more tyrannical, than it could have been, had they had no Appearance of a Senate, or of any popular Magiſtrate. In *France* likewiſe, the Forms of their ancient free Conſtitution are ſtill preſerved. The Parliament of *Paris* ſtill regiſters the King's Edicts; but that Parliament has not now the Liberty to refuſe. So in this Houſe, we may be allowed to approve of thoſe Meaſures, which our Sovereign and his Miniſters have before reſolved on; and this Form, or rather Farce of having our Approbation, may be continued for many Years after our Liberty or Power of refuſing it is taken away. I hope the Ceremony of having our Approbation is not as yet become a mere Piece of Form, or a mere Farce; but from the Treatment now complained of, I muſt ſuppoſe, that thoſe who adviſed his Majeſty to treat us in ſuch a Manner, are of Opinion, that even this Farce is now become unneceſſary, for, it ſeems, they do not think our Approbation to their Meaſures ſo much as worth aſking.

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My Lords, the Conſtitution of our Government, according to its ancient Form, is the moſt perfect, I believe, that was ever eſtabliſh'd; and therefore we certainly will, as long as we have any Honour or public Spirit left, endeavour to preſerve it. A very great Hiſtorian and Politician has long ago ſaid, that the beſt Form of Government is that, which conſiſts of a certain Mixture of the three principal Sorts of Government; but ſuch a Form of Government, ſays he, cannot poſſibly long endure. We in this Kingdom have fallen upon that Mixture, which he recommends; and thank God,

Ann. 13 Geo. II. 1739.

we have hitherto defeated his Prophecy. Our Anceſtors have preſerved that Mixture for many Ages, often at the Riſk of their Lives and Fortunes: God forbid! my Lords, it ſhould periſh in our Hands. But if we ſhould once allow any Miniſter to tread under Foot, or in the leaſt deſpiſe the Rights and Privileges of this Houſe, or to adviſe our Sovereign to do ſo, the Dignity of the Peerage will evaniſh, and if the Dignity of the Peerage ſhould evaniſh, the Dignity of the Crown itſelf will be gone; for the Dignity of our Sovereign conſiſts in his being ſovereign Lord of a free People, and a great Number of conſiderable and independent Lords. Our Conſtitution will ſoon deviate into a Democracy, which will of courſe ſoon come under the abſolute Rule of one, perhaps, one of the loweſt Rank among them. This has been already once our Fate, and this may probably be again our Fate, if we ſhould ever bring ourſelves into public Contempt, by allowing a daring and uſurping Miniſter to trample upon our Rights and Privileges. To prevent this for the future, is the only Intention of the preſent Motion; and therefore, I hope, every Lord that thinks there is the leaſt Cauſe to ſuppoſe, that our Honour has been attacked by the late Neglect that has been ſhewn us, will give his Affirmative to the principal Queſtion; for I cannot thing the noble Lord will inſiſt upon the previous Queſtion, becauſe I have ſhewn, that every Lord in this Houſe, let his Opinion be what it will, ought to be for having the principal Queſtion immediately determined.'

The Duke of *Newcaſtle*.

The Duke of *Newcaſtle*.

'My Lords, with regard to the Motion now under your Lordſhips Conſideration, the previous Queſtion I think is right, and for this very Reaſon, becauſe the principal Queſtion is not right. There are many Queſtions, which ought to have a Negative put upon them, whereof I think this is one, and yet there may be Danger in attempting to put that Negative; becauſe, if the principal Queſtion ſhould be put, what by the ill grounded Prejudices of ſome, and the unreaſonable Difficulties of other, it may be carried in the Affirmative, very much to the Detriment or Danger of the Commonwealth.

The preſent Queſtion, my Lords, is, I ſay, in my Opinion, a Queſtion of this Nature: If it were to be put, I ſhould be under no Difficulty in giving my Negative to it, becauſe, I think, the ſending of this Meſſage to the other Houſe ſingly, was neither contrary to the Cuſtoms of Parliament, nor any Way derogatory to the Rights or Privileges of this Houſe,

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His Majeſty, in his Speech from the Throne, acquainted us of the juſt and neceſſary War he was engaged in, and in our Preſence demanded of the other Houſe ſuch effectual Supplies, as might enable him to carry on the War with Vigour. In our Preſence he told the other Houſe, that he had ordered the Eſtimates, for the Service of the enſuing Year, to be laid before them; but could any Lord of this Houſe, or any Member of the other, then imagine, that Eſtimates could be made of all the Services that in Time of War might become neceſſary? We all know, my Lords, that in Time of War, the moſt effectual Meaſures for carrying it on with Succeſs, are generally ſuch as ought to be kept ſecret, till the very Moment of Execution. The Preparations for the Execution of ſuch Meaſures muſt be attended with an extraordinary Expence, and it is impoſſible to lay any Eſtimate of that Expence before either Houſe of Parliament, without divulging thoſe Meaſures which are to be carried on. Therefore, I think, from his Majeſty's Speech itſelf, we could not but expect, that, beſides the Eſtimates uſually laid before the other Houſe, and which might be laid before them without divulging thoſe Meaſures that ought to be kept ſecret, I ſay, we could not but from thence expect, that ſome certain Sum would be demanded for the carrying on of Meaſures, that neither could, nor ought to be communicated; and the aſcertaining of that Sum may, I think, properly be called the Eſtimate for thoſe Services or Meaſures; ſo that the Meſſage complained of, I muſt look upon as an additional Eſtimate, or as an Fxtenſion of the Eſtimates previouſly laid before that Houſe; and I do not think it is contrary to the Cuſtoms of Parliament, or derogatory to the Previleges of this Houſe, in his Majeſty, to lay, or to order to be laid, any Sort of Eſtimate before the other Houſe, without ordering it at the ſame Time to be laid before this. Ann. 13 Geo. II. 1739.

From the Journals of Parliament, my Lords, it will appear, that, *France*, during the War in Queen *Anne*'s Reign, there were many ſuch Meſſages ſent to the Houſe of Commons only. Nay, during the whole War, it was in every Seſſion the Cuſtom, to enable her Majeſty to apply any Part of the Supplies granted in that Seſſion to ſecret, or not then thought of, Services. And ſo far was this Houſe at that Time from imagining, they were to be conſulted with reſpect to every warlike Meaſure, the Crown might think proper to undertake, that thoſe diſappropriating Clauſes, as I may call them, were always agreed to without the leaſt Intimation from the Crown, that any ſecret Meaſures were then under Conſideration.

I ſhall grant, my Lords, that when his Majeſty is to aſk the Advice of his Parliament, it is this Houſe he ought principally

Ann. 13 Geo. II. 1739.

pally to apply to. I ſhall likewiſe grant, that it is prudent in the Crown to adviſe with its Parliament in all Caſes of great Importance, unleſs they be ſuch as require great Secreſy. His preſent Majeſty has always done ſo; and has never, in the leaſt, departed from that Advice which has, from Time to Time, been given him by his Parliament. But, I hope, no Lord will ſay, that his Majeſty is never to make the leaſt Step, without firſt conſulting his Parliament; and, in Caſes which require Secreſy, it is impoſſible for him to have the Advice of his Parliament, becauſe he cannot apply for it without divulging the Secret. The Meaſures he has now under Conſideration, and which will require ſome extraordinary Expence, an Eſtimate of which, or the Amount of which, he has, according to Cuſtom, ordered, to be laid before the other Houſe, are Meaſures which muſt be kept ſecret, and therefore they are ſuch as he can have no Advice about from his Parliament. If he had, by Meſſage, applied for the Advice of the other Houſe about thoſe, or about any Meaſures, the noble Lord would have been right in his Motion. A Meſſage for Advice ſent ſingly to the other Houſe would certainly have been derogatory to the Privileges of this; but, his Majeſty neither aſks, nor can aſk any Advice as to thoſe Meaſures, either of them or us. As the Meaſures muſt be kept ſecret, it would, in my Opinion, have been abſurd to have ſent any Meſſage relating to them, to this Houſe. His Majeſty was obliged to tell the other Houſe, that beſides the Eſtimates laid before them, ſome farther Expence would be neceſſary for carrying on the War with Vigour, of which no Eſtimate could be laid before them, becauſe the Meaſures concerted for that Purpoſe, were ſuch as could not be communicated. Such a Meſſage could not, I am ſure, be properly ſent to this Houſe; and, I muſt deſire the Lords to conſider, how it would have ſounded, to have deſired our Advice about Meaſures, and at the ſame Time to have told us, that thoſe Meaſures were ſuch as could not be communicated to us. Therefore, I muſt think that the not ſending of this Meſſage to us, is ſo far from being derogatory to our Privileges, that it would have been inconſiſtent with our Dignity, to have ſent it to us in the Terms in which it was ſent to the other Houſe, or in any Terms in which it could have been conceived.

Thus, my Lords, it appears, that his Majeſty could not ſay any Thing to us in relation to thoſe Meaſures, which render this extraordinary Supply neceſſary; and as to the Supply itſelf, as well as the Meaſures for which it is granted, we ſhall have an Opportunity to give our Conſent to both, when the Appropriation-Clauſe comes to receive the Concurrence of this Houſe, which it muſt do, before it can be paſſed into a Law. Therefore, there can, in my Opinion, be no juſt Reaſon for this Complaint, and I am ſure, there

there is no Precedent for it. That in 1726, is far from being an Authority for it. The other House singly was then called the Parliament, which was certainly a Mistake, and which might, perhaps, have been of bad Consequence to the Honour and Dignity of this House, if it had not been resented; but, in the Message now under our Consideration, the other House is neither called the Parliament, nor treated as such: It is treated only as that House of Parliament before which the Estimates are usually laid, and in this, I think, no Lord can say, there is any Mistake or Impropriety, nor can it, in my Opinion, in the least affect either the Honour and Dignity, or the Rights and Privileges of this House. Ann. 13 Geo. II. 1739.

For these Reasons, my Lords, I should be under no Difficulty in giving my Negative to the Motion; but, as other Lords may not be so fully convinced in this Case as I am, and may therefore be unwilling to put a direct Negative upon the Motion, therefore, I think it the best Way to put the previous Question, and when that Question is put, I shall most heartily give it my Negative, in which, I hope, most of the Lords that hear me will concur.'

The Earl of *Chesterfield.*

'My Lords, I am surprized to hear the noble Duke say, that this Message ought to be considered as an Estimate, or that it could not have been conceived in such Terms, as to make it proper for being communicated to this House. Is there any Word in the Message, that can make it look like an Estimate? Is there the least Mention of any Sum, either in general or particular? If his Majesty, in his Message to the other House, had said, that he had under his Consideration certain Measures, which would occasion an extraordinary Expence of 2 or 300,000*l.* not comprehended in the Estimates laid before them, there might then have been some Reason to call it an Estimate; tho' even in that Case, it ought to have been communicated to this House, as well as the other. But in the Words it is expressed, I think it impossible to find out a Pretence for calling it an Estimate, or any Thing like an Estimate; at least I must think, that those who have found out such a Pretence, are mighty ingenious in contriving how to palliate or excuse an Affront, that has been put upon this Assembly; which is a Sort of Ingenuity that would not look very well in private Life, whatever it may do in public. In private Life, if a Man should, without designing an Affront, do or say any Thing, or commit any Mistake or Oversight, that might look like putting an Affront upon another, he would be in the Right, should he use all his Arts to explain and excuse himself; but if the Person who received The Earl of *Chesterfield.*

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Ann. 13 Geo. II. 1739.

the Affront, ſhould make uſe of any Art or Ingenuity for palliating the Affront put upon him, I ſhould be apt to conclude, that ſuch a Perſon had not ſuch a Regard to his own Honour, as he ought to have.

I am, therefore, not a little ſurprized, to find among your Lordſhips, ſo much Art made uſe of upon this Occaſion, and ſuch far-fetch'd Gloſſes put upon this Meſſage, in order to palliate or excuſe the Neglect, or rather Contempt, that has been ſhewn us. But, my Lords, it is impoſſible, in my Opinion, to find any Excuſe that can have the leaſt Weight, upon thoſe, who have a true and a nice Regard to the Honour of this Houſe. The Meſſage is plainly this, that his Majeſty has under his Conſideration, certain ſecret Meaſures or Deſigns for attacking or diſtreſſing the Enemy, which will occaſion an extraordinary Expence, the Particulars of which he cannot, for the Sake of Secreſy, communicate, but deſires the Aſſiſtance of the other Houſe, for enabling him to carry them on, in the moſt effectual Manner. Is not this a Communication of his Majeſty's Deſigns, as far as they could be communicated? And ought not we to have had this Communication made to us, as well as the other Houſe? Or was it leſs neceſſary to aſk our Aſſiſtance, than to ask the Aſſiſtance of the other Houſe? No Miniſter could think it was, but he who thinks himſelf ſo ſure of our Favours, that they are not worth asking. This, my Lords, is treating us like the moſt common Proſtitute. We have from his Majeſty heard of Augmentations of our Forces by Sea and Land, we have heard of raiſing a Body of Marines: When the Supplies granted by the other Houſe for theſe Purpoſes, ſhall come before us, we ſhall know what they are for; and I do not queſtion, but your Lordſhips will moſt readily give them your Concurrence. But have we from his Majeſty heard any Thing of certain ſecret Meaſures now under his Royal Conſideration? And if the other Houſe ſhould grant a Supply for thoſe Meaſures, can we concur in granting ſuch a Supply, when we do not know, that there are any ſuch Meaſures. The Appropriation-Clauſe may inform us, that the Commons have granted a certain Sum of Money for the carrying on of certain ſecret, warlike Meaſures, but it cannot inform us, that his Majeſty then has, or ever had ſuch Meaſures in View; for this is Information we can take from none but his Majeſty himſelf, and without this Information, we ſhall act inconſiſtently with the Honour and Dignity of this Houſe, if we give our Concurrence to a Supply granted for ſuch a Purpoſe.

This, my Lords, muſt ſhew how neceſſary it was for his Majeſty, to acquaint us by Meſſage with his having ſuch Meaſures under his Conſideration; and it was ſo eaſy to have formed

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a proper Meſſage for that Purpoſe, that I am aſtoniſhed to hear the Poſſibility of it doubted of. Other Lords may, perhaps, much better underſtand the Method of drawing up a Meſſage from the Crown to this Houſe, becauſe they have of late Years had great Practice in this Way, more, I hope, than I ſhall ever have Occaſion for; but, in my Opinion, even the Meſſage ſent to the Commons would have required but very little Alteration, in order to have made it a Meſſage proper to be ſent to this Houſe. If the Words, *not comprehended in the Eſtimates laid before this Houſe*, had been left out, and the Word, *Lords*, put inſtead of the Word, *Commons*, I can ſee no Reaſon, why it might not have been a Meſſage proper enough to have been ſent to this Houſe. We ſhould then have had a proper Information of his Majeſty's having ſuch Meaſures under his Conſideration; and we ſhould have had an Opportunity to approve of his Majeſty's Care and Concern for the Succeſs of the War, and, perhaps, to give him ſome general Advice in relation to the Meaſures proper to be purſued, in caſe we had thought it neceſſary. I hope the Danger of our preſuming to give our Advice upon ſo important an Occaſion, was not the Reaſon of his Majeſty's being adviſed not to let us know, that he had any Meaſures for the Proſecution of the War under his Conſideration; for I am ſure, if it was, it ought to be reſented in a much ſtronger Manner, than the noble Lord has by his Motion propoſed.

But, my Lords, whatever was the Reaſon for neglecting, or purpoſely avoiding to communicate his Majeſty's Intentions to us, at the ſame Time they were communicated to the other Houſe, it muſt appear, from what I have ſaid, to be a moſt notorious and unprecedented Slight put upon this Houſe. I ſhall not ſay, my Lords, we were forgotten, or that any real Injury has been done us. We were, I believe, remembered; but it was, in order to put a deſigned Affront upon us. We have not been injured, but we have been ſlighted, which is worſe; becauſe a Slight proceeds always from Contempt, whereas an Injury proceeds often from Fear. A powerful, warlike, and jealous People can never be ſlighted; but if their Neighbours think them too powerful, they will, probably, take an Opportunity, if they can lay hold of one, to do them a real Injury, in order to diminiſh their Power. It is the ſame with any Aſſembly of Men: They muſt be contemned, before they can be ſlighted; and if we ſubmit tamely to the Slight we have upon this Occaſion met with, we may aſſure ourſelves of meeting very ſoon with a Second from the ſame Hand, and ſo with a Third, a Fourth, till at laſt we ſhall come to be contemned, ſlighted, and inſulted by the whole World.

Ann. 13 Geo. II. 1739.

The noble Lord was, therefore, much in the Right to take Notice of this Slight, that has been put upon us, and to take Notice of it in the moſt ſolemn Manner. I hope the Majority of your Lordſhips, at leaſt, will join with him upon this Occaſion. His Youth can be no Reaſon for preventing the oldeſt Lord in this Houſe from joining with him in ſuch a juſt, ſuch a neceſſary, and ſuch a modeſt Sort of Reſentment. It is not the firſt Time a Nation has been ſaved by the Vigilance, the Alacrity, and the Courage of a young Man of Quality. *Rome* was ſaved by a very young Lord, or Patrician, when many of thoſe that were much older than he, were like to have ruined their Country by their Deſpair. When I ſay this, my Lords, every one muſt know, I mean the great *Scipio*, afterwards called *Africanus*, who, before he was 20 Years of Age, ſaved his Country, by compelling thoſe that were deſpairing, to take a ſolemn Oath, that they ſhould never leave nor forſake it. And if there be any amongſt us, that deſpair of being able to preſerve the Dignity and Authority of this Houſe, I hope the Example of the young Lords that made and ſeconded this Motion, will revive their drooping Courage, and make them reſolve never to forſake or give up thoſe Rights and Privileges, for which their Anceſtors have ſo bravely fought, and ſo often bled.

But for God's Sake, my Lords, why ſhould we be ſo ſhy of declaring our Opinion upon this Occaſion? Many, I hope the Majority of the Lords of this Houſe, are of Opinion, that the Neglect lately ſhewn us, affects our Honour in the moſt ſenſible Part. Why ſhould we refuſe, or delay to reject or embrace this Opinion? Let us peremptorily declare, whether it does, or does not. Suppoſe we ſhould declare it does, by agreeing to the preſent Motion, what Prejudice can from thence enſue to the Common-wealth? Such a Reſolution may, indeed, reflect a little upon the Man, who was the Occaſion of this Slight being put upon us. Who he may be, I cannot comprehend. Such a Slight could not proceed from the Crown itſelf, nor would it have been allowed, if the Advice of any Lord of this Houſe had been aſked. Yet there are ſeveral amongſt us, who have the Honour to be of his Majeſty's Council; but I muſt ſuppoſe, that none of them were conſulted upon the Occaſion. I am ſorry they were not: I hope they do not often find themſelves ſo much neglected. But let this Reſolution, if agreed to, reflect upon whom it will, it can do no Hurt to the Commonwealth, nor to any Community or Body of Men in the Kingdom. In the Preſervation of the Rights and Privileges of this Houſe, every Community, every Body of Men in the Nation, have a Concern. If ours ſhould be brought into Danger, the Rights and Privileges of no Body

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of Men, nor of any particular Man, in the *Britiſh* Dominions could be ſecure. Therefore, my Lords, for our own Sakes, for the Sake of our Fellow-Subjects, for the Sake of our King, for the Sake of our Country, we are obliged to be jealous of the Rights and Privileges of this Houſe, and conſequently, I think, we are obliged to agree immediately to this Motion,

Ann. 13 Geo. II. 1739.

The Lord *Chancellor*.

'My Lords, as I have yet given you no other Trouble in this Debate, than merely to ſtate the Queſtion under your Conſideration, I ſhall now give you my Opinion upon it, which I ſhall do in as few Words as poſſible. My Lords, if I thought that any of our Rights or Privileges had been in the leaſt violated, by not ſending the Meſſage complained of, to this Houſe, at the ſame Time it was ſent to the Commons, no one of your Lordſhips could be more ready than I ſhould be, to agree to this Motion, or to any farther Step that ſhould be thought neceſſary for aſcertaining and ſecuring our Rights and Privileges in Time to come; but, I am ſo far from thinking it a Violation, or even a Neglect of any of our Rights and Privileges, that I think it was abſolutely unneceſſary, and would have been very imprudent, to have ſent any Meſſage to this Houſe, upon the Subject this Meſſage related to. We know how ſtrenuouſly, and with that Warmth, the other Houſe have for many Years aſſerted their having the ſole Right of granting Supplies. We known what Animoſities and Diviſions have ariſen between the two Houſes, as often as any Queſtion has been ſtarted upon this Subject, and every Lord muſt with Terror, form in his Mind, an Idea of the unhapy State of Anarchy this Nation would be thrown into, ſhould a Breach happen in our preſent Circumſtance between our two Houſes of Parliament. This, I am convinced would have been the Conſequence, had his Majeſty ſent to this Houſe, a Meſſage of the ſame Kind with that ſent to the other. The Commons would have immediately taken the Alarm, and would have ſaid, that his Majeſty, by ſuch a Meſſage, had in a Manner directed us to interfere with, and encroach upon them in their ſole Right of granting Supplies.

The Lord *Chancellor*.

Thus I have ſhewn, my Lords, that it would have been very imprudent in his Majeſty to have ſent any Meſſage upon this Occaſion to us; and that none of our Rights or Privileges, or even the Deference that is due to us, made the ſending of ſuch a Meſſage to this Houſe Neceſſary, I ſhall now endeavour to ſhew. My Lords, there are three Sorts of Meſſages which are uſually ſent by the Crown, to both

Ann. 12 Geo. II. 1739. or either Houſe of Parliament. The firſt Sort are ſuch as uſually are, and ought to be ſent to both Houſes: The ſecond, ſuch as are, and ought to be ſent but to one Houſe; and the third, ſuch as ought to be ſent to one or other of the two Houſes, according to the Nature of the Buſineſs to which they relate. Of the firſt Sort are all Meſſages for Advice, or for any new Powers, eſpecially in Affairs that relate to the Public in general; as to which we all know, that his preſent Majeſty has been very exact, and has never ſhewn the leaſt Sort of Neglect to one or other of his Houſes of Parliament. Of the ſecond Sort, are all Meſſages that relate to the Peerage, ſuch as that in the Year 1718, which was ſent to this Houſe only, and likewiſe all Meſſages relating any way to Judicature, which are to be ſent to this Houſe ſingly, without taking Notice of the other, becauſe the Cognizance of all ſuch Affairs belongs ſolely to this Houſe; and yet, if an Act of Parliament be neceſſary for introducing any new Regulation, with reſpect to either of theſe Caſes, we muſt have the Concurrence of the other Houſe, before that Regulation can be paſſed into a Law. Of this ſecond Sort likewiſe are all Meſſages relating ſingly to the Buſineſs of Supplies, which, in order to prevent a Breach between the two Houſes of Parliament, are now to be ſent ſingly to the other Houſe, without taking Notice of this; and yet the Grants of thoſe Supplies, that are made by the other Houſe, before they can be rendered effectual by being paſſed into a Law, muſt have the Concurrence of this. And of the third Sort, are all Meſſages which are ſent to either Houſe of Parliament, relating to any one particular Affair at that Time under the Conſideration of that Houſe.

Now, my Lords, if we conſider the Meſſage upon which the noble Lord's Motion is founded, and which he was pleaſed to read to you, we muſt conclude, that it is one of that Sort of Meſſages which are now to be ſent ſingly to the other Houſe, without taking Notice of this; becauſe it is a Meſſage that relates ſingly to the Buſineſs of Supplies. His Majeſty does not thereby deſire the Advice of Parliament, nor does he deſire any extraordinary Power. The Word Meaſures are, indeed, mentioned, but they are ſuch Meaſures as neither are nor can be explained, therefore his Majeſty could neither deſire nor expect the Advice of either Houſe of Parliament in relation to them: And as they are Meaſures which his Majeſty, it ſeems, may undertake and carry on without any new Powers, he had no Occaſion to aſk for ſuch, either from us or the Commons. He wants nothing but a Supply of Money for that Purpoſe, and that the other Houſe inſiſts upon the ſole Privilege of granting; ſo that if his Majeſty had aſked any

any ſuch Supply of us, they would certainly have look'd upon it as an Encroachment upon their Privileges; and as this is a Point we have never yet given up, it would of courſe have occaſioned a Breach between the two Houſes. That this would have been the Conſequence, we may be convinced of, from the Method in which this Meſſage was treated by the other Houſe. Upon their receiving this Meſſage, they did not vote an Addreſs by Way of Anſwer to the Crown, which is the uſual Method upon other Occaſions; but they immediately referred it to the Committee of Supply, and in that Committee, I ſuppoſe, they have granted ſuch a Sum, as they thought ſufficient for the Purpoſe, and that Sum will, in the Appropriation-Bill, be appropriated to carry on ſuch Meaſures, as his Majeſty ſhall judge neceſſary in the further Proſecution of the War. When this Clauſe comes before us for our Concurrence, we have no Occaſion to enquire, whether his Majeſty has any, or what Meaſures under his Conſideration. From the Nature of Things we know, that in Time of War, ſome Meaſures may become neceſſary, which could neither be particularly communicated to, nor particularly provided for, by Parliament, either becauſe it was neceſſary to keep them ſecret, or becauſe they were not then thought of; and therefore, we could not but expect, that ſome ſuch Grant would be made by the other Houſe, and would be ſent up for our Concurrence. Nay, even from his Majeſty's Speech we muſt have expected ſome ſuch Thing; for there, his Majeſty tells us, that the Services will be various and extenſive; from whence we could not but ſuppoſe, that particular Eſtimates could not be made up for every Service that might occur in the Courſe of this enſuing Year.

From what I have ſaid, my Lords, I hope it will appear, that the ſending of this Meſſage to the Commons ſingly, without taking Notice of this Houſe, was no Slight, nor an Attack upon any of our Rights or Privileges, and that it would have been very imprudent in his Majeſty to have ſent a Meſſage of this Kind to us; and it will likewiſe, I hope, from thence appear, that it would not only be wrong, but very imprudent in us, to agree to the Reſolution propoſed; for the ſame Reaſons that would have made it imprudent in his Majeſty to ſend any ſuch Meſſage to us, muſt make it imprudent in us to agree to ſuch a Reſolution. If we ſhould agree to it, we may expect, that the other Houſe will preſently take the Alarm. They will certainly hear ſomething of the Reſolution: They will thereupon order a Committee to ſearch our Journals, which they have a Right to do; and upon that Committee's reporting, that they have found ſuch a Reſolution in our Journals, the other Houſe will certainly come to

ſuch

Ann. 13 Geo. II. 1739. such Reſolutions, as muſt occaſion a Breach between the two Houſes: How fatal the Conſequences of this Breach may be to the Commonwealth, in our preſent Circumſtances, I ſhall leave to your Lordſhips Conſideration.

This muſt ſhew, my Lords, that we ought to be extremely ſhy of agreeing to the Reſolution propoſed; and at the ſame Time I ſhall grant, that we ought alſo to be ſhy of giving it a direct Negative; for tho' what is now complained of, is no Violation of our Rights or Privileges, nor of that Deference that is due to us from the Crown; yet, if we ſhould put a flat Negative upon this Motion, as it will ſtand upon Record in our Journals, it may hereafter be made a Precedent for ſomething, that will be a real and downright Violation of our Rights and Privileges, or of that Regard which ought to be ſhewn us, as the higher Houſe of Parliament; and for this Reaſon, I think, it is the moſt prudent Method to ſuſpend the Deciſion of this Affair, by putting the previous Queſtion upon the Motion.'

The Lord *Carteret*,

The Lord *Carteret*, 'My Lords, I am ſorry I ſhould be ſo often obliged to trouble your Lordſhips upon this Occaſion, but really the more I hear ſaid againſt this Reſolution, the more important the Affair ſeems to grow, the more neceſſary, I think, it becomes for us to agree immediately to what my noble Friend has been pleaſed to propoſe. His Motion I at firſt thought would have had a good Effect, even though our Approbation of it ſhould have been ſuſpended by the previous Queſtion; but from what the noble Lord, who ſpoke laſt againſt the Motion, has ſaid, I find the Motion will have no Effect upon the future Conduct of Miniſters, unleſs it now meets with the Approbation of this Houſe. My Lords, it is impoſſible for any Miniſter or Ambitious Prince to ruin our Conſtitution, without firſt proſtituting the Honour, and debaſing the Dignity of this Houſe; and this can never be done without our own Concurrence or Connivance. If what has been laſt ſaid againſt this Motion, be allowed to have any Influence upon this Aſſembly, every future Miniſter that pleaſes will, at every Turn, take an Occaſion to Affront us, and to violate our Rights and Privileges, and will plead for his Excuſe, that he durſt not do otherwiſe, for fear of alarming the other Houſe, and occaſioning a Breach between the two Houſes of Parliament. Nay, his Creatures in this Houſe, as a future Miniſter may have ſome, tho', I am ſure, no Miniſter has any ſuch at preſent, will tell us, that we muſt not attempt to vindicate our Honour, or aſſert our undoubted Rights and Privileges, for fear of occaſioning a Breach between the two Houſes; and

will

will be ſure to repreſent to us in the moſt hideous Light, the fatal Conſequences of ſuch a Breach. Ann. 13 Geo. II. 1739.

I know, my Lords, that a Breach, or a Diſpute about Privileges, between the two Houſes of Parliament, is a very troubleſome Affair: I am ſenſible, that it ought to be avoided as much as poſſible; but it was never yet attended with any fatal Conſequence. When ſuch a Diſpute happens, one or other muſt be in the Wrong; and when Men are allowed Time to cool, and to think deliberately upon the Subject, they generally at laſt give Ear to Reaſon, or ſome Methods are found out to put an End to the Diſpute without a Determination; one of which has in a ſhort Time been the Conſequence of all the Diſputes that have happened between us. Suppoſe the other Houſe, at the Inſtigation of ſome ambitious and artful Member, ſhould be ſo unreaſonable, as to find fault with our vindicating our Honour, and aſſerting, againſt an encroaching and arrogant Miniſter, that Regard which is due to us from the Crown, are we therefore to ceaſe doing our Duty? Or muſt we, for fear of this Conſequence, ſubmit tamely to every Indignity ſuch a Miniſter may pleaſe to put upon us?

For God's Sake my Lords, do not demean yourſelves ſo much, as to allow ſuch an Argument to have any Weight in this Debate. Conſider alone, whether in the preſent Caſe you have been neglected, and if you think we have, I am certain you will reſolve to vindicate your Honour, let the Conſequence be what it will. But, in my Opinion, there is not the leaſt Danger of the other Houſe's taking amiſs any Reſolution you can come to upon this Occaſion. There would not have been the leaſt Danger, as the noble Lord has been pleaſed to inſinuate, of their taking it amiſs, had his Majeſty ſent this Meſſage to us, at the ſame Time he ſent it to them. His Lordſhip may diſtinguiſh Meſſages into as many Sorts as he pleaſes, but I muſt inſiſt upon it, that all Meſſages that relate ſingly to the Buſineſs of Supplies, are not to be ſent to the other Houſe ſingly, without taking Notice of this. A Meſſage for a Vote of Credit, is a Meſſage that relates ſingly to the Buſineſs of Supplies, and yet no Member of the other Houſe, I believe, ever imagined, that a Meſſage for a Vote of Credit ought not to be ſent to us, as well as them. My Lords, this very Meſſage is a Meſſage for Credit. It is a Meſſage for an Act of Credit, which is ſtill more than a Vote of Credit. The other Houſe may limit the Credit they give upon this Occaſion, as well as they generally do the Credit they give by a Vote; but whatever the Sum may be that is granted or promiſed, for doing what we know nothing of it is a Grant or Vote of Credit, and every Meſſage deſiring ſuch a Vote or Grant, ought to be ſent at the ſame Time to both Houſes. The other Houſe's referring this as a Meſſage immediately

Ann. 13 Geo. II. 1739.

mediately to the Committee of Supply, without thinking of an Addreſs by Way of Return to it, is no Argument for ſhewing, that they thought the Meſſage ought not to have been communicated to this Houſe. Laſt Seſſion they treated the Meſſage then ſent in the ſame Manner. Tho' it was a Meſſage for a Vote or an Act of Confidence, as well as Credit, they referred it immediately to the Committee of Supply, without thinking of addreſſing his Majeſty by Way of Return: Nor did they think of taking it amiſs, that the Meſſage was communicated to us, as well as them. Have we not within theſe few Years ſeen ſeveral Meſſages for a Vote of Credit only? Have not all theſe Meſſages been ſent at the ſame Time to both Houſes? And did the other Houſe ever think of taking it amiſs, that ſuch a Meſſage was communicated to this Houſe? The Caſe would have been the ſame, had this Meſſage been ſent up to us: The other Houſe would not have ſo much as thought of taking it amiſs; nor would ever ſuch a Thought have entered, I believe, into any Man's Head, if it had not been to excuſe the Blunder of a Miniſter, which, I think, is the ſofteſt Name I can give the Neglect, that has been ſhewn us upon this Occaſion.

I am really ſurprized to hear any Lord of this Houſe arguing from the ſole Right the Commons pretend to, of granting Supplies, that they may from thence take Occaſion to prevent all Sort of Communication between the Crown and this Houſe, which might be the Caſe, if they ſhould be allowed to be Judges, what Sort of Meſſages ought to be ſent to this Houſe. My Lords we have never yet yielded to them the ſole and excluſive Right of granting Supplies, or that we have not a Right to alter and amend thoſe Money-Bills they ſend up to us. It was but in the Year 1696, that they came to a Reſolution, which they afterwards made a ſtanding Order, not to confer with this Houſe about any Amendment made by us to a Money-Bill, and this is the only Determination this Affair as yet met with, which is a Determination we are not in the leaſt obliged to ſtand to. This very Diſpute, it is true, occaſioned a Breach between the two Houſes in the Year 1671, which was the Occaſion of dropping one of the Money-Bills ſent up by the Commons that Seſſion; but this was ſo far from being a Misfortune, that it was lucky for the Nation, becauſe it prevented the entire Ruin of the *Dutch*; for King *Charles* II. had in that Year been drawn into an Alliance with *France* for attacking *Holland*, which was accordingly ſoon after put in Execution; but the Loſs of this Money-Bill preventing his Majeſty's attacking the *Dutch* with that Vigour he might otherwiſe have done, and this gave them Time to prepare, and to withſtand the *French* Attack by Land, much better then they could have done, had they at the ſame Time been vigorouſly attacked by Sea; ſo that our inſiſting ſtrenuouſly

ſtrenuouſly upon our Rights at that Time, tho' it occaſioned a Breach between the two Houſes, was of great Service to this Nation, and to *Europe* in general. Ann. 13 Geo. II. 1739.

This, my Lords, may ſerve as a Proof of what I take to be a general Rule in all human Affairs, which is, that in every Caſe that occurs, we ought to do our Duty, and truſt the Event to Providence. But in the preſent Caſe, it is evident, that our agreeing to this Reſolution can occaſion no Breach between the two Houſes, nor be attended with any bad Conſequence; for I have ſhewn, that the Commons could not have taken it amiſs, had this Meſſage been communicated to us, at the ſame Time it was to them, and conſequently they cannot take amiſs our agreeing to the Reſolution propoſed. I believe, moſt of them will agree with me in Opinion, that it is a dangerous Thing for the Crown to ſend any Meſſage in Writing to either of the Houſes, without taking Notice of the other; for there is a great Difference between a Meſſage in Writing, and thoſe verbal Meſſages ſent by ſome of the King's Miniſters or Servants. Theſe laſt, indeed, may be ſent to either Houſe, according to the Nature of the Affair to which they relate; but a ſolemn Meſſage in Writing, I will venture to ſay, ought generally to be ſent to both Houſes. If a Meſſage relating to Judicature ſhould be ſent to this Houſe ſingly, the other might probably take it ill; becauſe they have never allowed us the ſole Right of being the ſupreme Judicature, no more than we have allowed them the ſole Right of granting Supplies. And even with regard to the Peerage, if a Meſſage in Writing was neceſſary for introducing or paſſing any Law relating to it, I believe the ſafeſt Way would be, to ſend it to both Houſes; but I cannot conceive, how a Meſſage can be neceſſary in either of theſe Caſes: Tho' no Bill becomes a Law, till it receives the Royal Aſſent, yet we have, in both Houſes, a Power to bring in and paſs ſuch Bills, as we think neceſſary for the Public Good, or the Preſervation of the Conſtitution, without having Leave from the Crown by Meſſage, or any other Way; for upon ſuch Occaſions no Prerogative ought to be allowed to ſtand in our Way.

I know that in the Year 1718, a Meſſage in Writing came to this Houſe relating to the Peerage Bill; and, my Lords, it was a wiſe, a tender, and a ſalutary Meſſage: I wiſh I could ſee ſuch another: I am ſure, if I could expect to ſee ſuch another, I ſhould be among the firſt to move for bringing again ſuch a Bill as that was, into this Houſe. If that Bill had paſſed into a Law, our Conſtitution would have been more ſecure, and this Houſe a better Barrier againſt the Ambition of Miniſters, than it is at preſent. We know by whom it was oppoſed: We know it was oppoſed by one,

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who has now great Weight in the other Houſe; and while he has the ſame Weight, I believe we ſhall never ſee the ſame Bill revived. But the Meſſage ſent to us by the Crown upon that Occaſion, was far from being neceſſary. It proceeded entirely from the Goodneſs of the late King, who was willing to give that early Teſtimony of his Approbation, in order to remove the Clamours of ſome Courtiers, who ſeemed to be againſt the Bill; and had that Meſſage been likewiſe communicated to the Commons, I believe it would have been right: I cannot think it would have been attended with any bad Conſequence. For, in all Caſes where a new Law is neceſſary, if a ſolemn Meſſage in Writing from the Crown be neceſſary, as the Law muſt have the Concurrence of both Houſes, the Meſſage ought regularly, I think, to be ſent to both.

We have been told, my Lords, that during the late War there were ſeveral Precedents of ſuch Meſſages as this being ſent to the other Houſe, without taking any Notice of this. I wiſh the noble Lords had mentioned but one of theſe ſeveral Precedents, I am ſure I know of none. I have ſhewn, that the Meſſage now under our Conſideration is directly a Meſſage for a Vote of Credit: It is, with reſpect to the Credit Part, expreſly the ſame with that Meſſage which was ſent laſt Year to both Houſes, and has been treated in the ſame Manner by the other Houſe; and before the Year 1717, ſo far as I remember, there was never any ſuch Meſſage ſent to both, or to either Houſe of Parliament. That Meſſage, we know, was violently oppoſed, and particularly by an eminent Member of the other Houſe, who has ſince, it ſeems, got a new Light; for he has been not only the Supporter, but, I believe, the Adviſer of many ſuch Meſſages ſince that Time. During the late War, I can think of no Meſſage in Writing, relating to the War, but what was ſent to both Houſes of Parliament. After the unfortunate Battle of *Almanza*, there was a Meſſage in Writing from the Crown; but it was ſent to both Houſes. After the Death of the Emperor *Joſeph*, there was a Meſſage in Writing from the Crown; but it was ſent to both Houſes. All the Meſſages I can think of, that related to the Public in general, have been ſent to each Houſe of Parliament; for it is but of late, that this Method of ſending Meſſages has been begun. When our Sovereign had any Thing new to communicate, or any Thing new to ask, the ancient Method was, to come to his Parliament, and make a new Speech; and I wiſh this Method had never been altered; for it is more ſolemn, and more becoming that Regard which our Sovereign ought to ſhew to the Supreme Council of the Nation.

Suppoſe,

Suppoſe, my Lords, we ſhould think it neceſſary to diſagree to the Credit deſired by the Crown. Suppoſe we were convinced, that the Credit or Money deſired would be employed in carrying on Meaſures, that muſt redound to the Prejudice of the Nation. This was the Caſe in the Year 1671, and may again be the Caſe: I am far from thinking it is ſo at preſent; but if it were, we could, in this Method, have no Opportunity of refuſing this Credit, but by doing, perhaps, an infinite Prejudice to the Public; for the Clauſe of Appropriation, with reſpect to the Sum granted by the other Houſe, in Purſuance of this Meſſage, will certainly come up to us in ſome Money-Bill, which the public Service neceſſarily requires to paſs; and if we ſhould think it neceſſary to throw out the Clauſe, we muſt of courſe throw out the Bill, or occaſion a Breach between the two Houſes of Parliament, which, the noble Lords, who are againſt this Motion, have told us, would be of the moſt terrible Conſequence in our preſent Circumſtances.

A noble Lord has told us, that the Sum granted by the other Houſe in Compliance with this Meſſage, will, in the Clauſe of Appropriation to be ſent up to us, be appropriated to the carrying on of ſuch Meaſures, as his Majeſty ſhall think proper, in the further Proſecution of the War. My Lords, I know nothing of the Words that may be made uſe of in that Clauſe; but ſuppoſe it comes up in theſe Words, and that the Sum granted may be 200,000 *l.* is not this giving the Crown a Credit for 200,000 *l.* in the very ſame Manner we gave it a Credit laſt Year for 500,000 *l.*? The only Difference is, that laſt Year his Majeſty deigned to ask it of us, and to tell us, it was neceſſary; but this Year, it ſeems, we are to give it without asking, and without knowing it is neceſſary. The noble Lord ſays, the Neceſſity of giving ſuch a Credit in Time of War, appears from the Nature of Things. My Lords, the very contrary appears from Experience; for during the long and heavy War in Queen *Anne*'s Time, no ſuch Credit was ever given. Her Majeſty was often empowered to apply any Part of the Supplies to ſecret or unthought-of Services; but there never was any particular Sum granted for that Purpoſe: Therefore, if we judge from Experience, as well as the Nature of Things, we muſt ſuppoſe, that no ſuch Credit is neceſſary, and conſequently, as the Crown has neither told us that it is, nor asked any ſuch of us, we muſt throw out that Clauſe, and of courſe the Money-Bill in which it is inſerted.

The noble Lord ſeemed to be ſenſible, that the Neceſſity of this Credit was not very apparent from the Nature of Things, and therefore, he endeavoured to ſhew, that his Majeſty had

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told us of it, and aſked for it in his Speech from the Throne Whether any ſuch Thing can be gathered from the Words he mentioned, or from any Words in his Majeſty's Speech, I muſt leave to your Lordſhips to judge. In Time of War, the Services muſt always be various and extenſive, but we could not ſuppoſe, that his Majeſty thereby meant, that we muſt now grant a particular Credit for thoſe Services, or that ſuch a Thing would be neceſſary now, tho' it was never before thought neceſſary. I ſhall grant, my Lords, that ſome few Words might very eaſily have been inſerted in his Majeſty's Speech, which would have prevented the Neceſſity of ſending this Meſſage to either Houſe of Parliament; but his Miniſters, by not thinking of, and foreſeeing things before hand, have brought themſelves into this Labyrinth; and I wiſh with all my Heart, they may not, by the ſame Sort of political Thoughtleſſneſs and Blindneſs, have brought the Nation into ſuch a Labyrinth, as we ſhall not ſoon, or eaſily get out of.

I muſt beg Pardon for having given your Lordſhips ſo much Trouble; but the Motion now under our Conſideration has, by the Debate upon it, become an Affair of ſo ſerious a Nature, that I think the very Being of this Houſe concerned in the Queſtion. A particular and diſtinct Correſpondence is now opened between the Crown and the Commons, and that to about Affairs which relate to the Public in general, Affairs of the greateſt Importance: That Correſpondence may increaſe to ſuch a Degree, as to render your Lordſhips quite uſeleſs; and if you ſhould once become ſo, you may depend upon your being at laſt voted uſeleſs by the other Houſe, as you have been heretofore. I thought it my Duty to oppoſe with all my Might, the firſt Approach of ſuch another Misfortune. Our Honour, our very Being requires an immediate Aſſent to this Motion: and as I look upon the previous Queſtion to be a Sort of Negative, I ſhall, therefore, be againſt our diſagreeing to the Motion, by that or any other Method.

The previous Queſtion was then put and paſſed in the Negative.

Debate upon upon the Penſion Bill.

March, 19. The Penſion-Bill having been read a ſecond Time, a Motion was made for committing it. Which was firſt oppoſed by Lord *Walpole*, but before he began he moved, that ſome Parts of the Journals in the Years 1729, 30, 31, and 32, might be read; which being read accordingly, he then went on in Subſtance as follows, *viz.*

The Lord *Walpole*.

The Lord *Walpole*.

'My Lords, from theſe Journals it appears, that a Bill with the very ſame Title has been already four Times ſent up

up from the other Houſe, and as often rejected by this, which gave me a Curioſity, as ſoon as the Bill came up, to look into it, and to compare it with the Bill ſo often rejected; and, I muſt ſay, I was greatly ſurprized, when I found it was almoſt Word for Word the ſame; becauſe I really take it to be an Affront offered to us, to ſend up a fifth Time the very ſame Bill that has, ſo lately, been four Times rejected by us. Surely, thoſe who were the Promoters of this Bill muſt think, that we are either ſhort in our Memories, or variable in our Judgments; for the Circumſtances of the Nation are exactly the ſame now, as they were then; and tho' we have ſeveral young Lords come into the Houſe ſince that Time, yet, I am ſure, if all thoſe that were, upon former Occaſions, for rejecting the Bill, be ſtill of the ſame Opinion, I may eaſily judge of its Fate. Ann. 13 Geo. II. 1739.

This, my Lords, I ſhould think ſufficient, upon the preſent Occaſion, for prevailing with your Lordſhips to put a Negative upon this Motion, if every Lord now preſent had been here, upon former Occaſions, when this Affair was fully debated; but, as there are now ſeveral Lords here, that were not then preſent, I ſhall beg Leave but juſt to touch upon ſome of the Reaſons formerly urged againſt this Bill, and which are now full as ſtrong as they were at that Time, nay, ſome of them, I think, much ſtronger. By wiſe Politicians, my Lords, it has always been laid down as a Maxim, not to make any Alterations in the fundamental Forms of your civil Government or Conſtitution, unleſs ſome Grievance or Inconvenience, that is ſenſibly felt, render it abſolutely neceſſary; and the Reaſons are very plain, becauſe ſuch Alterations are generally attended with Convulſions in the State, and becauſe the Remedies you provide, are often found to be worſe than the Grievences you intended to cure. This Maxim, therefore, ought always to be obſerved, in Time of Peace as well as in Time of War; but, in Time of War, we ought to be much more cautious of departing from it, than in Time of Peace.

Now, my Lords, according to this Maxim, we muſt either ſuppoſe, that there is Corruption in the other Houſe, and that of the worſt Sort; or we muſt allow, that we have now, in Time of War a ſtronger Reaſon for rejecting this Bill than we ever had before. To ſuppoſe that there is Corruption in the other Houſe of Parliament, and that Sort of Corruption too, which conſiſts in ready Money, or a private Penſion, would be throwing a very great, and, I hope, a very unjuſt Slander upon the other Houſe; but this I ſhall be very eaſy about, conſidering how often they have ſent this Bill up to us, if

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Ann. 13 Geo. II. 1739.

it did not, at the ſame time, throw a very great, and I am ſure a very unjuſt Slander upon his Majeſty's Government. My Lords, it is a Crime to corrupt, as well as to be corrupted; there can be no Corrupted unleſs there be a Corrupter, and to ſuppoſe that there is, in the other Houſe, any Man corrupted by the Crown, is to ſuppoſe that the Crown is guilty of a moſt infamous Crime, which no Lord in this Houſe will, I am ſure, ſuppoſe, during his preſent Majeſty's Reign.

We cannot even ſuppoſe, my Lords, that any of thoſe employed by his Majeſty in the Adminiſtration, are guilty of corrupting the Members of the other Houſe, becauſe it is not in their Power. They can grant no Penſion but by a Warrant from his Majeſty; they can give no Money, becauſe they have no public Money but what they muſt account for to his Majeſty, or to Parliament. As for that Part of the public Money which they muſt account for to Parliament, no Man will ſuppoſe, they can give any Part of it for bribing the Members; and as for that Part which they muſt account for to his Majeſty, they can give none of it, without letting his Majeſty into the Secret, and make him a Sort of Partner in their Crime, which no Man will ſuppoſe they dare attempt. They can, therefore, have no Money for this Purpoſe, unleſs they ſhould make uſe of their own private Fortunes; and, for ſuch a Purpoſe, no private Fortune can be ſuppoſed to be equal. But ſuppoſe it were in their Power, I do not believe it is in their Inclination; and, I hope, many Lords in this, are of my Opinion. I have the Honour to be nearly related to ſome of thoſe employed in the Adminiſtration: From thence I have had an Opportunity of knowing their moſt ſecret Thoughts; and from thence I have formed my Opinion. Therefore, if it is neither in the Inclination, nor in the Power of any one employed in the Adminiſtration, to corrupt the Members of the other Houſe, what Occaſion can we have, would it not be altogether imprudent in us, to make an Alteration in one of the moſt fundamental Parts of our Conſtitution, in order to guard againſt a Grievance, which is neither felt, nor can be, in his preſent Majeſty's Reign, ſo much as ſuppoſed?

My Lords, the Prerogative our Sovereign has of rewarding Merit, in what Shape, or in what Manner, he pleaſes, is one of the moſt fundamental, and one of the moſt uſeful Parts of our Conſtitution; and, an Alteration in this Reſpect, may not only occaſion Convulſions, which muſt be dangerous in Time of War, but likewiſe, it may be attended with Inconveniencies, which it is impoſſible to foreſee. There are many Sorts of public Services which cannot be immediately explained, which it would be inconſiſtent with the

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public Good to divulge; and yet, if this Bill ſhould Paſs into a Law, his Majeſty could reward no Services in any Member of the other Houſe, without explaining and divulging thoſe Services; nay, and putting it in the Power of that Houſe to judge, whether thoſe Services deſerved ſuch a Reward, which might occaſion Diſputes between that Houſe and the Crown, and would certainly diſcourage every Member of that Houſe from rendering any Secret Services to the Public.

This, my Lords, would be a great Prejudice to our Civil Government; and the frequent Oaths that are to be introduced by this Bill, would be of the moſt dangerous Conſequence, not only to our eſtabliſhed Religion, but even to natural Religion itſelf. In our antient Polity, both religious and civil, it was a wiſe Maxim, never to oblige or allow a Man to ſwear in any Caſe, where Self-Intereſt was concerned, eſpecially when the Circumſtances of the Caſe were ſuch as made it impoſſible to convict him of Perjury, even tho' he ſhould be guilty of it; but this Maxim ſeems to be quite overturned by this Bill, and therefore, I am convinced it will introduce amongſt us, an utter Contempt of Perjury, which is always followed by an utter Contempt of Religion.

Theſe, my Lords, are ſome of the Reaſons formerly made uſe of againſt this Bill: They have already been four Times approved of by this Houſe: They are now ſtronger than ever they were before; and therefore, for the Sake of your own Character, as well as for the Reaſon of the Thing, I hope you will give this Bill the ſame Treatment, it has ſo often before met with.'

The Lord *Talbot*.

' My Lords, Could any Oppoſition to a Meaſure, abſolutely neceſſary for the Preſervation of the Conſtitution, have ſurprized me, I ſhould have been amazed at the Reception given to the Bill now under our Conſideration, The Lord *Talbot*,

The Commons, ſenſible of the Prevalence of Corruption, and well knowing the inevitable Deſtruction attendant upon any Government infected with that politicial Contagion, have ſent your Lordſhips a Bill for ſecuring their own Integrity, and to prevent the dreadful Effects, an Evil ſo ſubtle and formidable might ſoon occaſion, if not entirely eradicated. Nor is the Bill founded upon *Utopian* and chimerical Schemes of public Virtue; but ſo extremely requiſite, that you have already in the Statute Books two Laws calculated to obtain the ſame End: Notwithſtanding which, it is ſtill poſſible for Miniſterial Craft, working upon abandoned Proſtitution, to evade and render them ineffectual.

If

Ann. 13 Geo. II. 1739.

If you believe the Commons really intended, by their paſſing this Bill, to ſupport their own Honour, and to preſerve their own Houſe uncontaminated by ſecret Corruption, may they not with Reaſon reſent your defeating ſo upright a Deſign? May not it occaſion a Breach of that Harmony, which we ought to endeavour to promote between the two great legiſlative Branches? And will not the whole Nation eſpouſe their Cauſe, and warmly join in their honeſt Indignation?

On the other Hand, were it poſſible to ſuppoſe, they meant nothing by this Bill, but to delude their Conſtituents, by an Appearance of Zeal againſt that malignant Influence, which may make thoſe that were choſen as the Guardians, become the Subverters of the Liberty of their Country, would it be conſiſtent with your Dignity, with your Duty to God and Man, to be acceſſary to the abominable Craft? No, my Lords, this Houſe can never ſink ſo infamouſly low, as to co-operate in ſo mean, ſo contemptible, ſo profligate a Jobb: You may be yourſelves deceived, but you are incapable of deceiving.

A private Penſion is a Breach of Truſt; and if you refuſe your Aſſent to this Bill, you in ſome Meaſure give a Sanction to the Infringment of thoſe Laws it is intended to enforce.

The noble Lord's Argument drawn from the four Journals, he ordered to be read, concludes nothing, but that it was, at thoſe Times the Senſe of the Houſe to reject Bills of the ſame Nature. But, my Lords, there are many Lords now preſent, who did not ſit in this Houſe at any one of the Periods referr'd to; and the Commons, after having been four Times defeated, offering this Bill to your Lordſhips, is a Proof of their Opinion of the abſolute Neceſſity of ſuch a Law.

It was obſerved by the noble Lord, that the Time is improper: Far otherwiſe is my Opinion; for at an Hour when the Situation of Affairs obliges the Parliament to impoſe heavy Burdens upon a Nation, already labouring under the ſevere Preſſure of an enormous Debt, are we not directed by Juſtice and Prudence to give them the utmoſt Proofs in our Power, of the Integrity of thoſe Perſons, by whom the oppreſſive Taxes muſt neceſſarily be impos'd.

The noble Lord hath ſaid, paſſing this Bill would be a Slur upon the Commons. Surely it cannot be eſteemed in that Light, as they begin it themſelves; for if by the Bill's paſſing their own Aſſembly, the Slur be not caſt, the enacting ſo upright a Bill, cannot reaſonably be judged ſo. A Parliament in the 2d of *Henry* VIIIth paſs'd an Act to annihilate all the Debts the King had contracted upon Loans. The

Reaſon

Reaſon given by Hiſtorians is, that it was filled by his Majeſty's Servants, with whom Juſtice had not ſo much Weight, as Complaiſance to the Crown. Ann. 13 Geo. II. 1739.

The Numbers of Placemen in that Parliament are not ſpecified; but, I believe, they did not amount to near three hundred in both Houſes, nor is there mention made of a ſingle Penſioner. The Parliament ſtigmatized by the Name of the penſionary Parliament, propoſed an expurgatory Oath, to clear themſelves from that Aſperſion, containing many Particulars, one of which was, That each Member ſhould ſwear, he had never given his Vote in Parliament, for any Reward or Promiſe whatſoever. I ſincerely wiſh that, to gratify the People, the ſame, or ſuch another Oath, ſhould now be taken; and as the Oath propoſed by this Bill will, I think, be rather more effectual, therefore I am for the Bill's being committed, and hope it will be paſſed into a Law.'

The Earl of *Hallifax*.

'My Lords, Unfit as I am to offer my Thoughts to your Lordſhips, I ſhall undertake the Taſk with Pleaſure, whenever my Duty calls me to it. I was in Hopes, however, that I ſhould have had no Occaſion of troubling your Lordſhips to Day; I was in Hopes, that this Bill, calculated for the Independency of Parliament, after having received the unanimous Sanction of the Houſe of Commons, would not have met with an harder Fate within theſe Walls. I muſt confeſs, I am in the greateſt Difficulty, my Lords, how to reconcile the Oppoſition it finds, with the warm Zeal for the Freedom of Parliament, and the tender Regard to the Conſtitution of it, which your Lordſhips have ſhewn upon ſo many other Occaſions. I am ſtill more at a Loſs, my Lords, when I conſider the Weakneſs of Argument, and Shadow of Reaſon, upon which ſuch an Oppoſition is founded. The Earl of *Hallifax*.

Every Friend to the Revolution muſt be zealous for fully obtaining thoſe noble Ends propoſed by it; but this, my Lords, can never be, till the Independency of Parliament is ſecured. To gain this eſſential Point muſt be the Wiſh of every honeſt Heart; and tho' many Difficulties may occur, before the great Scheme be complete, yet every Step we take againſt the undue Influence of Power, ſtill farther removes from us that fatal Danger, by which this Country may one Day fall. We have leſs to fear, my Lords, from a foreign Power abroad, than from a miniſterial Power at home. This the Houſe of Commons is ſenſible of; and, fearing, they have not ſufficient Security for the Independency of their

Ann. 13 Geo. II. 1739.

Members, deſire your Lordſhips Concurrence, to ſtrengthen it, and to enforce thoſe Laws already in Being, againſt thoſe notable Friends to Liberty, called Penſioners: And ſhall we, my Lords, fruſtrate the good Deſign? Shall we refuſe them the Security they aſk? and ſhall not the ſame Reaſons that weighed with our Anceſtors to enact Laws, weigh with us for the Enforcement of them? were they not, my Lords, I ſhould be apt to believe what I have often with Concern heard, when I was abroad, That the *Engliſh* have the beſt Body of Laws now extant in the World, but want the Execution of them.

One Objection, my Lords, that has been made to the Bill by the noble Lord who ſpoke firſt is, That it would multiply Oaths. If Oaths are ever neceſſary, it is upon ſuch Occaſions as theſe, when a Man enters upon the great Truſt repoſed in him by his Conſtituents. We ſwear to our King; This is an Oath to our Country. Many Men, my Lords, will break their Words, who dare not violate their Oath; and Fear has often an Effect, when Conſcience has none. I can eaſily believe, my Lords, that there will be many wicked Men in future Times, who wou'd betray their Truſt, evade the Acts of Parliament, and receive their Penſion, if they cou'd avoid the Penalty due to Perjury. —— They wou'd hazard their Expulſion, ſo they eſcaped the Pillory.

Another Reaſon, my Lords, that pleads ſtrongly with me for this Oath of Purgation, is the Difficulty a Houſe of Commons is like to meet with, in the Diſcovery of their proſtituted Members. If a future Miniſter ſhould follow the generous Example of ſome of his Predeceſſors, all Papers, all neceſſary Informations would be denied, and Corruption be as ſecret as it is deſtructive. Is it to be imagined, that a Man vile enough, unlawfully to receive a Penſion, would be alſo weak enough to avow it himſelf? Knavery and Cunning are too often joined, to expect it. Is it to be ſuppoſed, that a corrupting Miniſter will ever confeſs, where he unwarrantably extends his Bounty?

It has alſo been ſaid by the noble Lord, that paſſing this Bill would prove a Suſpicion of the Government. A free People, my Lords, muſt always be ſuſpicious; and Liberty muſt ever be upon its Guard. Many, perhaps, my Lords, think, they have juſt Grounds for Suſpicion, when a Multiplicity of Places, a numerous ſtanding Army, an Increaſe of Taxes, and an immenſe Civil Liſt, have, during ſo many Years of Peace, borne hard upon the Subject. As to myſelf, my Lords, I am diſpoſed to be much more candid in my Opinion; and I wiſh I could perſuade myſelf, that as ſuch infinite

infinite Sums of Money paſs thro' other Channels, there was but little left for the worthy Penſioners; but, I fear the Caſe is different. I fear, my Lords, 'tis too eaſily to be proved, that if his Majeſty's Civil Liſt was exonerated of all unneceſſary Penſions, he might afford (as Queen *Anne* did, out of a much leſs Civil Liſt) 100,000 *l. per Annum*, for the Support of the preſent War. Thus every loyal Heart, unbrib'd, unpenſioned, would be zealous in his Majeſty's Service; and his Throne would be ſtrengthened (if poſſible, more than it is at preſent) upon that only true Baſis of Royal Power, the Affections of his People.

I have ever been, my Lords, and I hope I ever ſhall be, an Enemy to Corruption; but of all the Variety of Corrupted, ſurely Penſioners, if there ever are any ſuch in an Houſe of Commons, are the loweſt Sect. They have no Title, no Pretence, to the Salary they receive. All their Merit is their Vote; and even that is a Diſgrace when the Freedom of it is loſt. They neither ſerve their Country, nor truly ſerve their King. They are the humble Servants to a Miniſter, whoſe Orders they obſequiouſly obey, whatever be his Conduct with regard to his Maſter's Intereſt. Placemen may be honeſt, but Penſioners in the Houſe of Commons never can. They violate the Laws of their Country, when they are firſt hired; and when they enter upon their Pay, they commence Enemies to the Public. Thoſe who are brib'd, my Lords, are far leſs guilty than ſuch Penſioners. Some Author I've read, makes this Diſtinction between a Penſion and a Bribe: A Bribe, he ſays, is given for a particular Jobb, a Penſion is a conſtant, continual Bribe. The Jobbers are only a Sort of Day-labourers; but Penſioners are domeſtic Servants, hired to go thro' all the dirty Buſineſs of the Houſe. As they receive a Miniſter's Wages, I wiſh they had alſo worn his Livery; and thus the Diſcovery of them had been eaſily made, without perplexing your Lordſhips with this Bill. The *Jews* of *Rome*, my Lords, becauſe it is apprehended, ſo great a Number of them may ſome Time endanger the State, as a Mark of their Religion, are obliged to wear a Piece of yellow Linen upon their Hats. I wiſh, my Lords, we had ſome ſuch Inſtitution for the unlawful Penſioners; for as many of the *Jews* chuſe rather to quit the City, than bear about this Mark of Infamy, ſo I flatter myſelf, we ſhould have got rid of a conſiderable Number of our Penſioners, as ſoon as their virtuous Characters were known by their yellow Caps.

I am ſure, my Lords, I need trouble your Lordſhips no more to prove the dangerous Conſequences that may accrue to the Public, from the Violation of our Laws againſt theſe Hirelings. Whether this Bill will be effectual, whether it

Ann. 13 Geo. II. 1739.

will entirely ſtop this Channel of Corruption, I'll not pretend to ſay; but ſomething muſt be done: Let us not refuſe a good Thing, becauſe it is not the beſt; or be averſe to remedying Part of the Evil, becauſe we cannot get rid of the Whole. The Freedom of Parliament has never been loſt, or recovered, but by Degrees; and, if your Lordſhips have a Mind to amend and ſtrengthen this Bill, let it be referred to a Committee appointed for that Purpoſe. Any Thing, my Lords, rather than reject the Bill with Contempt, as if the Independency of Parliament were a Point not worthy this Aſſembly's Conſideration. My Lords, it is moſt particularly our Care; and tho' ſome paltry, venal Writers of theſe Days, have endeavoured to palliate and juſtify the Guilt of Corruption, any, even to prove it neceſſary for the carrying on of Government, yet, I am perſuaded, that Syſtems ſo inconſiſtent with our Conſtitution, have ever been abhorred by your Lordſhips.

However public Virtue hath been derided: However the honeſt Support of our Country's Cauſe have been miſconſtrued Reſentment, Spleen, Malice, and Diſaffection, yet Patriotiſm is a Virtue that, I hope, will always recomend itſelf to Parliaments, ſince Parliaments can only ſubſiſt by it. To give the World a Proof that ſuch Virtue is ſtill amongſt us, let us give our Concurrence to this Bill; and thus ſhall we put it out of the Power of future Malice to ſay, that the invidious Taſk of throwing out this Bill was, with Succeſs, laid upon us, and that we ſubmitted ourſelves to the unpopular Burden, too heavy for the Commons.

The Lord *Hinton.*

The Lord *Hinton,*

'My Lords, however unpopular, however invidious it may appear, to oppoſe this Bill, yet, I think myſelf in Duty obliged to take the Taſk upon me; becauſe, I think it a moſt unneceſſary Innovation of our Conſtitution; and an Innovation that will certainly be of the moſt fatal Conſequence to the Morals of the People. It has often been the Fate of this Houſe, my Lords, to withſtand unreaſonable Prejudices that have been artfully raiſed among the People; and the more general or violent ſuch Prejudices may grow, the more zealous ought we to be for preventing the dangerous Effects they may produce, either in the Nation or upon our happy Conſtitution. For this Reaſon, ſo far from yielding to any popular Outcry on Account of its being general, I ſhall always be for examining cooly into its Foundation, and where I can find

find no ſolid Foundation, I ſhall never be for rearing a new Fabrick, or any Addition to the old. Ann. 13 Geo. II. 1739.

I know, my Lords, a great Outcry has of late been moſt artfully raiſed againſt Corruption; and, I believe, there are many well-meaning Men who think there is ſome Ground for it; becauſe it is natural for Mankind to indulge their own Vanity and Self-conceit, by imagining that thoſe who differ from them, eſpecially in Politics, are governed by any other Motive rather than that of Reaſon; and as Corruption is the moſt obvious Motive that can be imputed to thoſe that approve of the Meaſures of a Court, therefore thoſe that diſapprove, of courſe ſuppoſe, that moſt of their Antagoniſts are influenced by Corruption. But this to me is no Proof, nor ſo much as a Preſumption. It is from Court-Meaſures alone that I am to judge; and if thoſe Meaſures have been ſuch as I though reaſonable, I cannot ſuppoſe, Charity will not allow me to ſuppoſe, that any Gentleman in either Houſe of Parliament was, from corrupt Motives, induced to approve of them.

This, my Lords, is my Way of judging: I hope it will be allowed to be a reaſonable Way of judging; and if it is, I am ſure it muſt be allowed by a great Majority of this Houſe, that there is at preſent no ſolid Ground for the Outcry that has been lately raiſed againſt Corruption. I ſhall agree with the noble Lords who appear ſo zealous for this Bill, that our Conſtitution may hereafter, and by ſome Changes in the Situation of our Affairs, come to be in Danger from Corruption; but, if we were to think of providing againſt every poſſible or diſtant Danger that might be ſuggeſted by a gloomy and fertile Imagination, we ſhould never be a Moment at Reſt, nor our Conſtitution a Twelve-month the ſame. The noble Lord who ſpoke laſt has allowed, that the Liberties of a Country were never loſt, but by Degrees; therefore he muſt allow, that our Liberties cannot at once be ſwallowed up by Corrruption. It muſt come upon us by Degrees; and of all Dangers to which our Conſtitution can be expoſed, that of Corruption muſt make the moſt ſlow and gradual Approaches. We have already many Fences againſt it, Fences which, in our preſent Situation, I think inſurmountable; but, if I ſhould hereafter find myſelf miſtaken, I ſhall be as ready as any Lord in this Houſe to add new Fences, and to repair the old, in as ſtrong and effectual a Manner as poſſible. This we ſhall have ſufficient Time to do, becauſe we cannot but perceive the Approach of ſo dangerous an Enemy, by the Effect it muſt have upon one or other Houſe of Parliament; for if we ſhould find the Parliament approving of public Meaſures that are in themſelves either weak or wicked, we muſt then

ſuppoſe,

Ann. 13 Geo. II. 1739.

ſuppoſe, that Corruption has begun to break through our former Fences, and then, indeed, it will be Time to think of providing ſome new Defence.

The preſent Bill, therefore, can appear neceſſary to none but thoſe who think, that the Parliament has of late approved of ſome weak or wicked Meaſures of Government; and as I am far from thinking ſo, I cannot agree to the committing or paſſing of this Bill, eſpecially as I am of Opinion, that it would have a moſt fatal Effect upon the Morals of the People. I believe, it will be allowed, that there is nothing of more dangerous Conſequence to the Happineſs of Society, than a general Contempt of Perjury among the lower Sort of People; and we know how ready the lower Sort are to follow thoſe Examples that are, or which they ſuppoſe to be ſet them by thoſe of ſuperior Rank. I am far from ſuppoſing, that any Gentleman of the other Houſe has a ſecret Penſion from the Crown, and far leſs ſhall I ſuppoſe, that if any one of them had, he would ſolemnly declare upon Oath, he had no ſuch Thing; but, my Lords, it is impoſſible for any Gentleman to guard abſolutely againſt the Reproach of malicious Tongues, or to prevent that Reproach being believed by a great many. There are now, there will always be ſome Gentlemen in the other Houſe, reproached with having private Penſions from the Crown; and this Reproach will always be believed by many without Doors. If this Bill ſhould paſs into a Law, every Gentleman ſo ſuſpected muſt ſwear, that he has no ſuch Penſion. Would his Swearing ſo remove the Reproach? No, my Lords, it would add to it a new Reproach of a much more heinous Nature; for many without Doors would believe, he ſwore falſly; and many of the meaner Sort, being confirmed in this Belief, would, from the Example ſuppoſed to be ſet them by a Gentleman of ſuch Rank and Figure in his Country, begin to loſe that Veneration every Man ought to have for an Oath; by which Means Perjury might at laſt become contemptible among the Vulgar; and this would of courſe lay open the Flood-gates of all other Sorts of Wickedneſs.

From this Conſideration, my Lords, if our Liberties were now in Danger from Corruption, if ſome new Remedy were neceſſary for putting a Stop to that Evil, I ſhould nevertheleſs be againſt this Bill; becauſe the Remedy would bring on a greater Evil than that which it is intended to cure. But as, I think, we are at preſent, whatever may be pretended, in no more Danger from Penſioners in either Houſe of Parliament, than we are from the *Jews* in the City of *London*, I think it as unneceſſary to provide any new Remedy

medy againſt the former, as it would be to put yellow Caps upon the latter; and I believe, the noble Lord himſelf does not think it neceſſary, or that it would be proper, to put any Mark of Diſtinction upon the *Jews* that reſide in this Kingdom: Nay, I believe, he will grant, that the Danger apprehended at *Rome*, which was the Occaſion of putting a Mark of Diſtinction upon them there, was rather imaginary than real; and that it was ſuggeſted by that ſelfiſh, narrow, perſecuting Spirit, which clapt Tails to the *Heretics* in *Spain*.

But why, my Lords, ſhould we give ſo much Attention to this Outcry againſt Corruption, and yet wholly diſregard that Outcry againſt Reſentment, Malice, Envy, Diſaffection, and Sedition, which prevails among another Set of Peopole? For as no Man is willing to ſuppoſe, that any Difference from his Opinion proceeds from Reaſon, the Friends of the Adminiſtration are as apt to impute the Oppoſition to theſe Motives, as the Oppoſers are apt to impute an Approbation of the Government's Meaſures to Corruption. For my own Part, I am ſo charitable as to believe, that both Sides are governed by their Reaſon; and therefore, if it ſhould be thought neceſſary to oblige the Members of the other Houſe to ſwear, they had never given their Vote in Parliament for any Reward or Promiſe whatſoever, I ſhould think it neceſſary, at the ſame Time, to oblige them to ſwear, they had never given a Vote in Parliament, out of Reſentment, Malice, Envy, Diſaffection, or Sedition; for, I think the Man, who is under the Government of either of theſe, as far from being a free Agent, as he that is under the Influence of Corruption.

The Earl of *Carliſle*.

The Earl of *Carliſle*.

'My Lords, When one conſiders the Nature of this Bill, it is really amazing to find it meet with any Oppoſition in this Houſe. It is ſo far from being an Innovation with reſpect to our Conſtitution, that it can ſcarcely be ſaid to be a new Law; becauſe the ſole Intention of the Bill is, to amend and enforce Laws that are already in Being, and Laws too which were made to obviate and prevent a Practice that has often been uſed, and that has always been acknowledged to be of dangerous Conſequence to our Conſtitution. To pretend that we are not at preſent in any Danger from the private Penſions that may be given to Members of the other Houſe, muſt appear abſurd to every Man, that conſiders the Nature of Miniſters, or the Nature of Mankind. My Lords, it is a Danger we can never be free from, nor can ever ſufficiently guard againſt, as long as it is

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is in the Power of a Miniſter to give, or of a Member to receive. It is abſolutely neceſſary for a Miniſter to have the Conſent or Approbation of Parliament in almoſt every Step of his Conduct; therefore, from the very Nature of Miniſters we may ſuppoſe, that if he cannot obtain ſuch Conſent or Approbation by his Authority, he will endeavour to obtain it by his Power; and from the Nature of Mankind we muſt ſuppoſe, that among ſuch a Number of Men as are in the other Houſe, the Miniſter will always find ſome of them ready enough to proſtitute their Conſent or Approbation for a conſiderable Bribe or annual Penſion. Thus we muſt always be expoſed to this Danger, and we are now a great deal more expoſed to it than ever we were heretofore; becauſe our Miniſters now have infinitely more to give, and Cuſtom or Example has, I'm afraid, greatly added to the Number of thoſe that are ready to receive.

This, my Lords, the Gentlemen of the other Houſe are fully ſenſible of, and therefore they have endeavoured, by this Bill, to add to the Strength of thoſe Laws, which were made for guarding againſt a Danger that has greatly encreaſed ſince the laſt of them was enacted. By this Bill there is no Alteration made in our Laws or Conſtitution: There is no Man excluded from having a Seat in the other Houſe, but thoſe who, while they ſit there, are guilty of a continued Breach of the Laws of their Country, and would certainly be not only expelled but proſecuted, if their Crime could be diſcovered and proved. By the very Act of Settlement itſelf, my Lords, it was expreſly enacted, amongſt other Things, That no Perſon having a Penſion from the Crown, ſhould ſerve as a Member of the Houſe of Commons; and though this Clauſe was in general repealed, by an Act of the 4th and 5th of Queen *Anne*, yet it was then again thought ſo reaſonable to exclude Penſioners from having Seats in the other Houſe, that it was a-new enacted, That no Perſon having any Penſion from the Crown during Pleaſure, ſhould be capable of being a Member of any future Houſe of Commons; and by an Act of the firſt of the late King, this Incapacity was farther extended to all Perſons having any Penſion from the Crown, for any Term or Number of Years, either in their own Names, or in the Name of any other Perſon in Truſt for them, or for their Benefit. Thus your Lordſhips ſee, that by the Laws now in Being all Perſons who have Penſions from the Crown during Pleaſure, or for any Term or Number of Years, are rendered incapable of having Seats in the other Houſe; and by theſe Laws great Penalties are inflicted upon thoſe, who

who preſume to break through them. But as no Proviſion has been made by either of theſe Laws for diſcovering ſecret Offenders, and as every Man muſt be ſenſible that ſuch Penſions may be given privately, the Gentlemen of the other Houſe have thought it neceſſary, and, I hope, your Lordſhips will think it neceſſary, to provide the beſt Remedy that can be thought of for this Defect, which is the chief, and indeed the ſole Intention of this Bill.

I cannot help, therefore, being aſtoniſhed at its being pretended, that this Bill will occaſion any Alteration or Innovation in our Conſtitution; and there is nothing convinces me more of the Neceſſity there is for paſſing it, than the Circumſtances of the noble Lords, who, I find, oppoſe it. To the Honour of the Adminiſtration in the firſt Year of the late King, I muſt obſerve, that the Law paſt at that Time, for excluding Penſioners from the other Houſe, was introduced by a Secretary of State, and approved by moſt of thoſe in the Adminiſtration; and it was prudent and right in them to do ſo. A Miniſter that has no Intention to make uſe of Bribery and Corruption, has no Occaſion to oppoſe any Bill that can be thought of for preventing ſuch infamous and illegal Practices; and therefore, when I find ſuch a Bill oppoſed by thoſe who are the known Friends of a Miniſter, it will always be a prevailing Argument with me, not only to think that there is a preſent and preſſing Neceſſity for ſuch a Bill, but alſo to think that the Bill propoſed will be in ſome Meaſure effectual. Whether the Bill now before us will be altogether effectual, is what I ſhall not pretend to determine; but I am convinced, both from the Nature of it, and from the Oppoſition it meets with, that it will have ſome Effect. It will at leaſt raiſe the Price of Proſtitutes, becauſe the more Riſk a Man runs, the higher Wages he will of courſe expect; and the higher you raiſe the Price of thoſe who are liable to be corrupted, the more difficult will every future Miniſter find it to corrupt; ſo that at laſt you may render the Practice impoſſible, notwithſtanding the many and great Boons our Miniſters have now to beſtow; and then they muſt think of gaining the Conſent or Approbation of Parliament by their Authority in Perſuading, and not by their Power in Corrupting.

But ſuppoſe it were your Lordſhips Opinion, that this Bill would be altogether ineffectual, can this be a Reaſon for not committing it? If the Intention of the Bill, if the Principle upon which it is founded, be right, the Imperfection of it is no Reaſon againſt committing it; becauſe in the Committee you may alter and amend it, ſo as to

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remove every Imperfection; therefore, I muſt think, that the noble Lords who oppoſe committing it, diſapprove of the Principle upon which it is founded, and, indeed, moſt of their Arguments ſeem to tend that Way. Such a Bill's having been rejected by this Houſe in former Seſſions, is no Reaſon for our rejecting it in this. Some of the beſt Laws that were ever made, have at firſt met with the unlucky Fate of being rejected. The Triennial Bill was at firſt rejected by this Houſe, and yet the very next Seſſion it was approved of and paſſed by this Houſe; and tho' it was at that Time rejected by the Crown, yet in the next following Seſſion, it met with the Approbation of the three ſeveral Branches of our Legiſlature, and was accordingly paſſed into a Law. That Law, 'tis true, has been ſince repealed; bnt nevertheleſs, it has always been deemed by a great Majority of the Nation, to be an excellent Law; and many of thoſe who joined in the Repeal of it, I believe, now heartily repent of their having done ſo. But the very Repeal of that Law is a ſtrong Argument in favour of the Bill now before us; for the longer the Term is, for which the Repreſentatives of the People are choſen, the greater Security ought the People to have, that thoſe Repreſentatives ſhall not, from any ſelfiſh View, betray the Intereſt of their Country in Parliament.

To pretend, my Lords, that we ought never to think of guarding againſt Penſioners in the other Houſe, till we find the Majority of that Houſe approving of ſome weak or wicked Meaſures of Government, is the very ſame with ſaying, that no Man ought to think of repairing his Houſe, till it has tumbled down and overwhelmed him in the Ruins. Will Penſioners ever acknowledge, that they have agreed to any weak or wicked Meaſure? Will a Penſioner ever agree to give up the only Tenure by which he holds his Penſion? And if the Majority of the other Houſe ſhould once come to be penſioned and corrupted, could it be expected, that ſuch a Houſe of Commons would ever concur in paſſing any Law againſt penſioning and corrupting? I can freely declare that, in my Opinion, many Things have of late Years met with the Approbation of both Houſes of Parliament, that very little deſerved it. I believe there are very few Lords in this Houſe, that will now approve of every Thing that has, for theſe twenty Years paſt, been approved of by Parliament; and therefore, if every Lord makes this the Standard for his Opinion of this Bill, I have no great Doubt of its meeting with the Fate it deſerves. Whether the undeſerved Approbation ſome late Meaſures have met with in Parliament, was owing to the Number of Penſioners in the other Houſe,

Houſe, I ſhall not pretend to determine: I ſhall not even pretend to affirm, that there are at preſent any Penſioners in that Houſe; but when we ſee Members obtaining very great and lucrative Poſts for their Brothers, Sons, or diſtant Relations, it cannot but occaſion a Suſpicion, that they have a Fellow-feeling in the Salary or Perquiſites; and this Suſpicion is a good Reaſon for paſſing this Bill. But ſuppoſe there were no ſuch Suſpicion: Suppoſe we were abſolutely certain that there are at preſent no Penſioners in the Houſe of Commons, there is a Poſſibility, nay a very great Probaility, that there will be ſuch, as ſoon as we have the Misfortune to fall under the Government of a Prince, or Adminiſtation of a Miniſter, whoſe Projects or Schemes cannot be ſupported by Reaſon; for every one muſt ſee, that the Laws in being are not ſufficient for guarding againſt the Miſchief. Ann. 13 Geo. II. 1739.

By the Laws now in being, my Lords, it is made criminal for any Man that accepts of a Penſion to keep his Seat in the other Houſe; but thoſe Laws have provided no Method for diſcovering and proving that Crime; and as a Penſion may be given, as infamous Penſions are generally given, without allowing any Perſon to be privy to it but the Corrupter and the Corrupted, if you have a Mind to prevent the Practice as far as lies in your Power, you muſt put it to the Oath of one of the Parties, which is the Deſign of this Bill. I ſhall not ſay, that Method will be in every Caſe effectual: I ſhall admit, that ſome Penſioners may be abandoned enough to add Perjury to their Treachery, and to declare upon Oath, they have no Penſion, in that very Aſſembly where they earn their infamous Wages, and perhaps in the very Face of him, who pays them. But what is propoſed by this Bill is, my Lords, the utmoſt you can do: It will be a Sort of Teſt-Act upon Penſioners; and ſurely thoſe who are ſo ſollicitous about keeping the Diſſenters in ſubjection to a Teſt-Act, cannot refuſe to ſubject thoſe who are ſuſpected of being Penſioners, to the ſame Method of Purgation.

The Teſt-Act againſt Diſſenters, my Lords, was never yet thought ſufficient for preventing Occaſional Conformity; and yet, no true Lover of the Church ever thought it ought, for that Reaſon, to be repealed. The Teſt deſigned by this Bill againſt Penſioners, may not, perhaps, be ſufficient for keeping all of them out of the Houſe of Commons; yet, no true Lover of our Conſtitution can, for that ſingle Reaſon, think, it ought not to be impoſed. It will have ſome Effect: I believe it will have a very great Effect; becauſe of the Danger a Man muſt, in this Caſe, run, by taking a falſe Oath. The Revenue of a Gentleman, who is no Trader or Gameſter, is generally pretty well known; and

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his yearly Expence may be pretty nearly gueſſed at by his Neighbours and Servants. This upon a ſtrict Enquiry, will always afford a ſtrong Preſumption againſt him; and, as the Perſon that pays him his Penſion, may afterwards turn Evidence againſt him, he can never be abſolutely ſecure againſt a Conviction, which will, I believe, terrify moſt Men from being guilty of the Crime.

I find ſome Lords are, upon this Occaſion, extremely apprehenſive of corrupting the Morals of the People, by a Multiplicity of new Oaths: I wiſh the ſame Apprehenſions had prevailed, when ſuch an infinite Number of Oaths were contrived, for collecting our Cuſtoms and Exciſes. Moſt of thoſe Oaths are to be taken by Multitudes of People, and in Caſes where there are great Temptations for Perjury: The Oath now propoſed, is to be taken by none but Members of the other Houſe, and the Temptations to Perjury can never be great or frequent, but when our Conſtitution is in the utmoſt Danger. It is therefore ſomething ſtrange, that we ſhould be ſo little apprehenſive of corrupting the Morals of the People by a Multiplicity of Oaths, when we are contriving Methods for preſerving the Revenue of our Sovereign, and ſo very apprehenſive of the like Effect, when we are contriving Methods for preſerving the Conſtitution and Liberties of our Country. A Foreigner, upon conſidering this Behaviour, would be apt to judge, we had very little Concern about the latter, provided we could but enjoy a Share of the former; and, if we ſhould reject this Bill, without much better Reaſons than I have yet heard againſt it, I fear, moſt of our own People will join in forming ſo falſe an Opinion of this honourable and auguſt Aſſembly.

Your Lordſhips muſt be all ſenſible, how prevalent the Jealouſy is at preſent, of there being a great Number of Penſioners in Parliament: The Gentlemen of the other Houſe have endeavoured to allay that Jealouſy, and to vindicate the Honour of their Aſſembly, by ſending us up this Bill. If it ſhould be thrown out here, what will the Nation think? Will it not be generally ſuppoſed, that it is in this Houſe where the Number of Penſioners prevails, and that here the Penſions have their moſt infallible Effect? Or, perhaps it will be ſuppoſed, that there are Penſioners in the other Houſe as well as in this, but that the Penſioners in the other, for the Sake of recommending themſelves to their Conſtituents, had Leave from their Maſters to agree to this Bill, becauſe thoſe Maſters knew, they could depend upon the Number and Submiſſion of their Penſioners in this, for throwing it out. I am very ſenſible, my Lords, there is no real Ground for either of theſe Suppoſitions; but thoſe without Doors, who do not know the Reaſons upon which your Lordſhips proceed, when they find

a Bill

a Bill rejected which make no Alteration in our Conſtitution, which does not ſo much as make an Alteration in any former Law, which contains nothing but an Enforcement of the Laws in being againſt Penſioners; ſuch Perſons, I ſay, may think, they have Reaſon to make one or other of the Suppoſitions; and ſhould not we be extremly cautious of giving the leaſt Shadow of Reaſon for judging ſo unworthily of our Aſſembly?

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I do not know, but that ſome of your Lordſhips may be of Opinion, that the Laws now in being, for excluding Penſioners from the other Houſe, are inconvenient, and therefore wiſh they were repealed: If they are ſo, let them be repealed; for we ought not to ſit here, and ſuffer any Laws to remain in Force, that are inconvenient to the Society. But, if they are not inconvenient: If they are neceſſary for guarding our Conſtitution againſt Corruption the moſt dangerous, becauſe it is the moſt ſecret Enemy to a free State, they ought to be enforced, they ought to be rendered effectual, by all the Methods that can by the Wit of Man be invented, or by human Power exerciſed. In Caſes of ſuch a ſecret Nature we muſt, we ought to call the divine Power to our Aſſiſtance, by interpoſing the religious Solemnity of an Oath. By interpoſing an Oath, my Lords, in Matters of great Conſequence, and which cannot frequently occur, we ſhall never render the Solemnity familiar and contemptible; and where is there a Matter of greater Conſequence, on this Side the Grave, than the Preſervation of the Conſtitution of our Government, and Liberties of our Country? It is by interpoſing an Oath in trivial Matters, in ſuch as frequently occur and chiefly affect the meaner Sort, that we render the Solemnity familiar and contemptible to the Vulgar, and I wiſh the Invention of ſome of thoſe who are ſuppoſed to be no Friends to this Bill, had, in this Reſpect, been leſs fruitful.

My Lords, as the Laws now in being, for excluding Penſioners from the other Houſe, muſt, to every Man that conſiders them, appear to be altogether ineffectual, if this Bill be rejected, I ſhall, even in my Time, if I live but a very few Years, expect to ſee the other Houſe full of Penſioners. I ſhall expect to ſee a Miniſter in that Houſe, out of a Wantoneſs of Power, by his ſole ——— No ——— throw out a Bill of the utmoſt Importance, without deigning to give his Slaves ſo much as one Reaſon for what he obliges them to do. This, indeed, if it ſhould ever happen, I ſhall look upon as a Sign of his Power, but not of his Prudence; and, I may propheſy, that if ever a Miniſter ſhould get ſuch a Power over the other Houſe, his Power in this will be as abſolute, and equally inſolent.'

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The Earl of *Cholmondely*

The Earl of *Cholmondely*.

'My Lords, I ſhall always be as ready as any Lord in this Houſe, to enforce the Laws now in being, for excluding Penſioners from having Seats in the Houſe of Commons: I ſhall readily concur in any Method that may be propoſed for that Purpoſe, provided it be ſuch a one as I think conſiſtent with our Conſtitution; but when the Method propoſed, evidently tends to the Overthrow of that Conſtitution, which we all ſhew, and I hope ſincerely, ſo warm a Zeal for preſerving, I hope I ſhall always have Virtue and Reſolution enough, to give it my Negative, let the Conſequence be what it will. If the Laws now in Force, for terrifying a Penſioner from keeping his Seat in the other Houſe, are not ſufficient, I hope ſome Method will be found out, for rendering them ſo, without giving ſuch a Power to the other Houſe, as muſt ſoon overturn our Conſtitution, which, I think, would be the certain Effect of the Bill now before us; for it would ſhew very great Imprudence, as well as great Ignorance of our Conſtitution, if we ſhould expoſe ourſelves to a new Danger, for the Sake of avoiding a Danger of a different Nature, which we are already pretty well, if not effectually, guarded againſt.

By the Law of the 4th and 5th of Queen *Anne*, my Lords, mentioned by the noble Lord who ſpoke laſt, it is enacted, That if any Perſon having a Penſion from the Crown during Pleaſure, ſhall ſit or vote in the other Houſe, he ſhall forfeit 500 *l.* to ſuch as ſhall ſue for the ſame. And by the Act of the 1ſt of his late Majeſty, likewiſe mentioned by the ſame noble Lord, it is enacted, That if any Perſon having a Penſion from the Crown, for any Term or Number of Years, either in his own Name, or in the Name of any other Perſon in Truſt for him, or for his Benefit, ſhall preſume to ſit or vote in the other Houſe, he ſhall, in ſuch Caſe, forfeit 20 *l.* for every Day in which he ſhall ſo ſit or vote there, to him who ſhall ſue for the ſame.

Theſe Penalties are ſo high, that in my Opinion, my Lords, no Gentleman of Fortune will run the Riſk of incurring them, for the Sake of any Penſion the Crown can beſtow; and we know, that none but Gentlemen of Fortune can be choſen Members of the other Houſe. For this Reaſon, notwithſtanding the Suſpicions that prevail, and are moſt induſtriouſly propagated, without Doors, I cannot think, that there are at preſent any Penſioners in the other Houſe; and, indeed, from the very Nature of Things, I am convinced of it. No Prince, no Miniſter, will ever give a Penſion,

ſion, for the Sake of engaging a Man's Vote in Parliament, unleſs there be an abſolute Neceſſity for ſo doing; and whilſt a Prince, or Miniſter, deſires nothing of Parliament, but what is reaſonable, and agreeable to the public Intereſt, there can be no ſuch Neceſſity; for however much ſome Men may be actuated by Malice or Diſaffection, as long as the Adminiſtration purſues no Meaſures, but ſuch as are neceſſary for ſecuring the Happineſs of their Country, I hope they will always find a Majority in both Houſes of Parliament, ready to approve of ſuch Meaſures, without any Penſion or Reward. This has, in my Opinion, been the Caſe, I ſhall venture to ſay, ever ſince the Acceſſion of our preſent Royal Family; our Miniſters may, perhaps, have thought of ſome Meaſures that were diſagreeable; but as ſoon as they found they were ſo, they have always given them up: And ſome Things have, perhaps, afterwards appeared not to have been ſo right; but at the Time they were reſolved on, they appeared otherwiſe; and our Parliaments will, I hope, be always ready to forgive human Frailty, in all Caſes where no Neglect or Overſight can be imputed to the Authors or Actors. Ann. 13 Geo. II. 1739.

This, my Lords, is my Opinion of our late Conduct, and therefore I cannot ſuppoſe, that there are at preſent any Penſioners in the other Houſe, or any Penſioner in the Nation, but ſuch as are entitled to it out of Charity, or ſuch as have merited it by their paſt Services to the Public. I ſhall admit, that a prudent Man will take Care to repair his Houſe before it tumbles about his Ears; but a prudent Man will not put himſelf to the Trouble and Expence of repairing his Houſe, when no Flaw or Defect appears in any Part of it; and if it ſhould ever appear from Experience, that our Laws for excluding Penſioners from the other Houſe, are in any Reſpect deficient, I hope thoſe who have a Regard for the Liberties of their Country will take the Alarm, Time enough to get that Defect remedied, before the moſt artful Miniſter can ſecure ſuch an abandoned Majority of Penſioners in the other Houſe, as to render the Cure impoſſible; for it is an old Maxim, *Nemo repente fit turpiſſimus*, and this Maxim may be apply'd to an Aſſembly, with as much, if not more Juſtice, than to any ſingle Man.

But ſuppoſe, my Lords, I were convinced, that theſe Laws had by late Experience been found deficient, I ſhould nevertheleſs be againſt the Method propoſed by this Bill for removing that Defect; becauſe, I think the Remedy more dangerous than the Diſeaſe. Our Conſtitution, my Lords, and the Happineſs of it, conſiſts in an equal Mixture of three

Ann. 13 Geo. II. 1739.

three principal forms of Government; and therefore, no new Regulation ought to be made, that viſibly tends to deſtroy that Equality, or that Ballance, upon which our Conſtitution depends. We have as much Reaſon to avoid every Thing that may tend to the introducing of a Republican Form of Government, which generally ends in an abſolute Tyranny, as we have to avoid thoſe Things that may tend to the introducing of an abſolute Monarchy. In all ſuch Caſes, we ſhould conſider, that we are ſteering between *Scylla* and *Charibdis*; and that by too cautiouſly avoiding the one, we may make a Wreck of our Conſtitution upon the other. For this Reaſon, we ought of all Things to be cautious of veſting any new and diſtinct Powers in the other Houſe; and as this Bill veſts in them a new Power, which they are to exerciſe ſeparately and diſtinctly by themſelves, and without the Concurrence of either of the other two Branches of our Legiſlature, I think it would expoſe us to the Danger of falling under a Republican Form of Government, and conſequently, an abſolute Tyranny, a great deal more than we are at preſent expoſed to the Danger of falling under an abſolute Monarchy.

I know, my Lords, that great Endeavours have of late been uſed, to perſuade the People, that there is a great Number of Penſioners in the other Houſe, and as thoſe of an inferior Rank are naturally ſuſpicious, as well as envious of their Superiors, theſe Endeavours have, I believe, ſucceeded with a great many, ſo as to make them fond of this Bill. As their Penetration is not generally very extenſive, they do not ſee the fatal Conſequences it is attended with; and, therefore, they ſuppoſe, that none but thoſe who pay or receive Penſions, can be againſt it. I am, therefore, ſenſible, I undertake a very unpopular Taſk, when I oppoſe this Bill; but I diſdain a ſlaviſh Popularity, as much I ſhould diſdain a ſlaviſh Submiſſion to the Pleaſure of any Prince or Miniſter. The Favour of the People may, I know, be acquired by humouring the Prejudices, as well as the Prince by his Paſſions; but this Sort of Favour is, in neither Caſe, of any long Duration. The People by their Prejudices, as well as the Prince by his Paſſions, generally ſoon lead themſelves into ſome Misfortune; and as ſoon as this happens, the Paraſite, in both Caſes, becomes hateful and contemptible.

For this Reaſon, my Lords, we ought in no Caſe that comes before us, to give ourſelves any Concern about what the People may think without Doors. We ought to conſider only the Circumſtances of the Caſe, as they appear to us; and when we do this deliberately, and reſolve accordingly, the People without Doors, as ſoon as they have had

had Time to hear and conſider our Reaſons, will generally approve of our Reſolutions; and will then begin to hate and deſpiſe thoſe, who endeavoured to prepoſſeſs them with a bad Opinion of either Houſe of Parliament.'

The Duke of *Argyle*.

The Duke of *Argyle*.

'My Lords, we are now upon a Bill for putting an End to, or at leaſt preventing one Sort of Corruption in the other Houſe; and from the Oppoſition the Bill meets with here, and the imaginary Dangers that are ſuggeſted for ſupporting, or rather excuſing that Oppoſition, thoſe who are not perſonally acquainted with the noble Lords, who have ſpoke upon that Side of the Queſtion, would, I think, be apt to ſuppoſe their Opinion to be, either that Corruption is now become a neceſſary Evil, without which the Forms of our Government could not be preſerved, or that it is an Evil of very little Conſequence, and not at all inconſiſtent with the Subſtance of a free Government. Corruption, my Lords, has always hitherto been allowed to be vile, to be dangerous. I have, for my own Part, diſcouraged it in all Stations: I ſhall always diſdain the Obedience, or the paraſitical Sort of Aſſent that is to be gained only by Corruption; and I have always been ſorry, when I obſerved it was not equally diſcouraged by others; for if it were no Way encouraged by thoſe in high Stations, it would never be poſſible for the Mode in any Country to cover that Infamy, which naturally attends the Corrupted; nor would the Quality of the Offender ever atone for the wretched Meanneſs of the Offence.

I need not trouble your Lordſhips with explaining what is, in this Country, meant by a legal Adminiſtration: Every one knows what it is; and every one knows, that it may be eaſily ſupported without Corruption. Miniſters, my Lords, (for according to our Conſtitution, we ought always to have a great many of them) that have nothing in View, but the public Happineſs, and who have Wiſdom and Diſcernment enough to purſue that ſteadily, may deſpiſe the Aſſiſtance or Approbation of thoſe, who aſſiſt or approve, only becauſe they are paid for ſo doing. Such an Adminiſtration will always have the Majority of the Nation of its Side, and conſequently may, without any corrupt Means, have always a Majority in Parliament. Therefore, a legal and a wiſe Adminiſtration can never ſtand in Need of Corruption, for the Exerciſe of any of its Functions; but an illegal one, an Adminiſtration conſiſting of one ſole and

Ann. 13 Geo. II. 1739.

arrogant Miniſter, who will admit of no Partner or Aſſiſtant, but ſuch as implicitly ſubmit to his Direction, can never be ſupported without Corruption: It is againſt Law, and againſt Law it muſt be ſupported. Under ſuch an Adminiſtration, indeed, the Forms of our Government cannot be preſerved, without evading or violating our Laws againſt corrupt Practices; but under ſuch an Adminiſtration, while it laſts, the Subſtance of our Conſtitution muſt be ſuſpended, and we had better be without the Forms; for preſerving the Forms of a free Government will only ſerve to lull and keep the People aſleep, till their Chains are rivetted, and till one ſole Miniſter has ſo firmly eſtabliſhed his Power, that it may be eaſily tranſmitted to, or taken up by another. Many of our Princes, and their ſole Miniſters, have in vain endeavoured to eſtabliſh an arbitrary Government, without the Aſſiſtance or Shew of a Parliament: They have endeavoured to do it by open Force, and by open Force they have been all diſappointed, and the Miniſters often hanged; but by the ſlow and ſilent Approaches of Corruption, eſpecially now the Crown has got ſuch a Variety of Means in its Power, an arbitrary Government, more deſtructive and more expenſive than the other, may be eſtabliſhed by the Authority, and ſupported by the Shadow of a Parliament; for if a Prince, or his ſole Miniſter, ſhould ever have it in his Power to have always a corrupt Majority in each Houſe of Parliament, a *Britiſh* Parliament will be no more than a *Turkiſh* Divan.

Corruption is therefore, my Lords, of all Dangers, the greateſt our Conſtitution can be expoſed to, and the moſt to be apprehended. Its Approach is imperceptible, but its Blow, if not prevented, is fatal; and you cannot prevent its Blow, unleſs you prevent its Approach. The Laws now in being for excluding Penſioners from having Seats in the other Houſe, were deſigned as a Safe-guard againſt Corruption's entering, in one Shape at leaſt, within the Walls of that Houſe; and when we are conſidering, whether thoſe Laws ought to be enforced, we have no Occaſion for examining into late Meaſures, or for ſuppoſing that any late Practices have been made uſe of for corrupting the Members of either Houſe. We have now as much Reaſon to guard againſt the Approach of Corruption, as we had when thoſe Laws were made; therefore, we are now to conſider only the Laws themſelves, and if they appear inſufficient, they ought to be amended, whether any corrupt Practices have lately been made uſe of or not. That theſe Laws are inſufficient for the End intended, muſt, I think, plainly appear to every one that peruſes them. There are Penalties,

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'tis true, inflicted upon Penſioners that ſhall preſume to ſit or vote in the other Houſe; but it is evident that thoſe Penalties can never be recovered, becauſe the Fact can never be proved. A Penſion or a Bribe may be given in ſuch a Manner, that even he who gives it, can be no direct Witneſs againſt the Receiver; and it is always given in ſuch a ſecret Manner, that the Criminal may have good Reaſon to think, his Crime can never be diſcovered. For this Reaſon, no Penalty you can inflict, will ever have a great Effect; and this makes it neceſſary, in Caſes of Suſpicion, to require an Oath from the Party ſuſpected.

I ſhall not ſay, my Lords, that the Oath required by this Bill will have all the Effect that could be wiſhed. There may be ſome ſo abandoned, as to deſpiſe the religious Ceremony of an Oath; but it will have an Effect upon a great many; and even the moſt abandoned will be ſhy of denying their having a Penſion upon Oath, in the very Face, perhaps, of the Man who pays them their Penſion. Nay, even Prudence itſelf will make Men ſhy of being guilty of Perjury, leſt the Concealment of their Crime ſhould afterwards be imputed to them as a Favour, and made uſe of as a Handle for obliging them to do as much dirty Work afterwards without a Penſion, as they had done before for the Sake of a Penſion. It is an old and a true Proverb, that when I truſt a Man with my Secret, I make him my Maſter: An avaritious, or an extravagant, neceſſitous Man, may accept of iniquitous Wages from a Miniſter, and yet he would not, perhaps, chuſe to be ſuch an abſolute Slave to that Miniſter, as he muſt be, ſhould he put it in his Power to convict him of Perjury. Therefore, the Oath preſcribed by this Bill, will certainly have a very great Effect; and as the Laws propoſed to be enforced by this Bill, evidently appear to be inſufficient, this Method of enforcing them ought to be choſen, at leaſt till a more effectual one can be thought on.

What the noble Lords mean by preſent Danger, when they ſay we are in no preſent Danger from Corruption, I cannot comprehend. My Lords, it is an Evil we always have been, and always muſt be in Danger of. It has often been practiſed, it always will be practiſed, as often as Ambition in a Prince, or Wickedneſs or Weakneſs in a Miniſter, renders it neceſſary for him to have Recourſe to ſuch an infamous Practice. We may ſometimes be ſaid to be in no preſent Danger of an Invaſion, yet would he not be look'd on as a Madman, who ſhould make that an Argument for not repairing our Navy, eſpecially if, upon Enquiry, it ſhould appear to be unfit for Service?

Ann. 12 Geo. II. 1739.

Without finding Fault with any late Meaſures, without accuſing any one in the Adminiſtration, I will affirm, my Lords, that we are now in greater Danger from Corruption, than we were either in the 4th and 5th of Queen *Anne*, or in the firſt of his late Majeſty's Reign; for the more Power the Miniſters of the Crown have to corrupt, whether they make uſe of that Power or no, the more Danger we are in from Corruption; and every one knows, that the Miniſters of the Crown have now a much greater Power to corrupt, than they had at either of thoſe Periods. This ſhould make us reſolve in Time, to take all the Methods that can be thought of for guarding againſt the Uſe of that Power; for it is already ſo great, that if we ſhould have the Misfortune to fall under a Prince or Adminiſtration that will make uſe of it, I fear, it would then be impoſſible for us to guard againſt it. On the contrary, if the Means of Corruption now in the Power of the Crown, ſhould be thought inſufficient for ſecuring a perpetual, corrupt Influence over both Houſes of Parliament, ſuch an Adminiſtration would take hold of every Grievance, every War, every Misfortune, the Nation could be expoſed to, for encreaſing thoſe Means, in order to render the Effect infallible; and unleſs a moſt extraordinary Spirit of Virtue, as well as Jealouſy, ſhould begin to exert itſelf, I'm afraid, it would be impoſſible, as the Laws ſtands at preſent, to prevent their Succeſs by any legal or peaceable Method. For this Reaſon, my Lords, I look upon the preſent Queſtion to be a Sort of Tryal of Skill, the Fate of which is to determine, whether or no our Conſtitution is hereafter to be deſtroyed by Corruption, and the People reduced to the fatal Neceſſity of endeavouring to reſtore it by the Sword. If this ſhould ever come to be the unlucky Fate of this Nation, thoſe who now oppoſe our making uſe of legal Means for preſerving our Conſtitution, whilſt it is yet in our Power, will have no great Reaſon to rejoice in their paſt Conduct.

Let us conſider, my Lords, the vaſt Sums of Money that are now at the Diſpoſal, or under the Direction of the Crown; the infinite Number of lucrative Poſts, Places, and Employments, moſt of them unknown to our Anceſtors, now depending upon the ſole and arbitrary Pleaſure of the Crown; and the great Variety of penal Laws, by one or other of which the moſt Innocent may be made to ſuffer, the moſt Cautious may be entrapped, and from which the moſt Guilty may be ſcreened, by Virtue of that diſpenſing or mitigating Power, which, with reſpect to many of them, is now lodged in the Officers of the Crown: Let us, I ſay, my Lords, conſider theſe Things, and we muſt acknowledge, that the preſent

preſent Danger we are in, of having our Parliament converted into a *Turkiſh* Divan, is far from being imaginary; and when we are under ſuch well grounded Apprehenſions ſhall we rack our Invention for viſionary Dangers, in order to excuſe our agreeing to any Method for guarding againſt a Danger ſo real, and which may, upon the firſt Change of Miniſters or Meaſures, become inevitable and irreſiſtible? Ann. 13 Geo. II. 1739.

I muſt confeſs, my Lords, I do not know what the noble Lord means, when he ſays, the Balance of our Conſtitution will be deſtroyed by Means of that ſeperate and diſtinct new Power which, by this Bill, is lodged in the other Houſe. I do not know of any Power that is by this Bill to be lodged in the other Houſe, but the Power of turning a Man out, that ought not, that cannot, by the Laws now in Being, ſit or vote there; and this is a ſeperate and diſtinct Power which that Houſe now enjoys, and which has been always allowed. This Bill can, therefore, make no Alteration in what the noble Lord calls the Balance of our Conſtitution: but if by this Bill, or ſome ſuch Bill, we do not prevent corrupt and mercenary Slaves from entering into that Houſe, I can foreſee where the Balance of our Conſtitution will ſoon come to be: It will ſoon come to be lodged in the Pocket of the Prime Miniſter for the Time being; and if our Liberties and Privileges depend upon that Balance, they will then be lodged in the ſame Place, which, in my Opinion, is the worſt Repoſitory they can be lodged in.

I therefore hope your Lordſhips will, by paſſing this Bill, take Care that no Prime Miniſter ſhall ever be able to get the Balance of our Conſtitution into his Pocket; but I muſt here obſerve, that what is called the Balance, and, indeed, the Security of our Conſtitution, conſiſts not in the Power which any of the three Branches of our Legiſlature has over itſelf, or any of its own Members, but in no one of them having a Power over either of the other two. As the three Branches of our Legiſlature are diſtinct, they ought to be independent; at leaſt they ought to have no Dependency, but what proceeds from the public Good, and the mutual Happineſs of the three; for if any one of them ſhould ever, by Force or Corruption, get the abſolute Direction or Command of the other two, our Conſtitution will then be undone, tho' the Forms of it might, perhaps, be preſerved, in order to deceive the Vulgar and Ignorant. This is the Misfortune intended to be guarded againſt by this Bill; and it is not of late Years only, that this good Intention has been ſet on Foot. In the End of the late Queen's Reign, there was juſt ſuch another Bill brought into this Houſe, which at that Time met with ſo good a Reception here, that it was thrown

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Ann. 13 Geo. II. 1739.

out but by one Vote; and its meeting with that Fate was occaſioned by the Fault of one noble Lord, who, at the Time the Queſtion was put, happened to be in the Court of Requeſts, buying a Pen-knife, with two Proxies in his Pocket.

I ſhall acknowledge, my Lords, that I do not think the Bill now before us ſo perfect as it ought to be; but all its Defects may, I think, be eaſily remedied by proper Clauſes and Amendments in the Committee; and if your Lordſhips go into a Committee upon it, I ſhall contribute the little I can towards making it a perfect Bill: I ſhall probably offer ſome Clauſes, and particularly I think, it will be neceſſary to add one for puniſhing the Corruptor as well as the Corrupted. It is criminal to receive, but much more criminal to give a Bribe, and therefore the latter ought to be more ſeverely puniſhed: The very Attempt ought to be ſeverely puniſhed; and this, perhaps, would be as effectual a Method as any, to prevent the committing of the Crime; for if it were made penal to offer, directly or indirectly, to give or receive a Bribe, or corrupt Penſion, the Practice would become extremely dangerous, becauſe he that offers cannot be beforehand aſſured, that the other will not, inſtead of accepting, become an Evidence againſt him. In ſhort, my Lords, if the Commons were ſerious, when they paſſed and ſent us up this Bill, we ought to aſſiſt them as much as we can in purging their Aſſembly, or at leaſt, in keeping it clean, from all Corruption. Whether they were ſerious or not, is, indeed, what I ſhall not determine; for I muſt confeſs, I have ſome Suſpicions, when I conſider, that this Bill was paſſed unanimouſly in that very Aſſembly, which ſoon after diſagreed to a Motion for bringing in a Bill to exclude Placemen from having Seats in their Houſe. There is ſuch an Affinity between a Penſion and a Sine-Cure-Place with a good Salary, depending upon the Pleaſure of the Crown, that I am not quick-ſighted enough to diſcern the Difference; and therefore, I cannot ſee the Reaſon, why any Member of the other Houſe that was ſeriouſly reſolved to exclude Penſioners from that Aſſembly, ſhould diſagree to the bringing in a Bill for excluding at leaſt ſome Sorts of Placemen. But, my Lords, if the other Houſe, or any Part of it, was not ſerious when they paſſed this Bill, I think, we ſhould make them ſo, by ſending it back with ſuch Additions and Amendments, as they can find no Shadow of Reaſon for diſagreeing to. By this Means, we may get a Bill paſſed into a Law, which will be of infinite Service for ſecuring our Conſtitution, and which we could not, perhaps, have got their Concurrence in, if the Bill had been firſt modelled and brought in here.

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The Biſhop of *Salisbury*.

' My Lords, as this Bill, or a Bill of the like Nature and Tendency with this, has been often before us, and as often rejected, as it has been brought into this Houſe, I have ſeveral Times had an Opportunity to give my Sentiments upon it. I have always given my Vote againſt it, and have before given my Reaſons for ſo doing. My Opinion is ſtill the ſame, becauſe my Reaſons have never, I think, been anſwered; nor has the leaſt Care been taken in the forming of this Bill, or in its Progreſs through the other Houſe, to obviate any of thoſe Objections that have formerly been made againſt Bills of the ſame Nature; therefore I am convinced, that every Lord in this Houſe remains fixed in his former Opinion; and from thence one may judge of the Fate this Bill may probably meet with here. The Biſhop of *Salisbury*.

I could declaim againſt Corruption, and the Dangers we are expoſed to from that Quarter, tho' not with ſo much Eloquence, yet I hope with as much Zeal and Sincerity as any Lord in this Houſe; but Corruption, my Lords, is not, nor ought it, I think, upon this Occaſion, to be the Subject of our Diſcourſe. It is, I know, a popular Topick: It is a Crime which thoſe without Doors are always ready, without the leaſt Shadow of Reaſon, to lay to the Charge of thoſe within; and therefore thoſe without, who are by far the moſt numerous, are always delighted, when they hear it inveighed againſt, without conſidering whether it be properly brought into the Debate. The Bill now before us has, 'tis true, the Reſemblance of being a Bill againſt Corruption; but under the ſpecious Pretence is concealed a moſt dangerous Attempt, to eſtabliſh in the other Houſe a diſtinct Power, which may render them altogether independent of, and conſequently ſuperior to the other two Branches of our Legiſlature. Upon ſuch Occaſions, my Lords, we ought to conſider, that all Uſurpations have been founded upon the moſt ſpecious and plauſible Pretences; and I ſhall readily grant, that the other Houſe could not have thought of a more ſpecious or plauſible Pretence for acquiring to themſelves a new and dangerous Power, than that of preventing Corruption; but I hope your Lordſhips will ſee through the Diſguiſe, and prevent our Conſtitution's being caught in the Snare.

If the other Houſe were by this Bill, to acquire no new Powers, the principal Objection I have formerly made againſt ſuch Bills as this would, indeed, be removed; but, my Lords, it is evident, tnat they are, even by this Bill, to acquire a new,

and

Ann. 13 Geo. II. 1739.

and a diſtinct Power. The Members of that Houſe are all to declare and give an Account of every Gratuity, Reward, or Preſent, they receive from the Crown. Is there no Uſe to be made of this Declaration? If it ſhould be turned to no Uſe, why ſhould it be made? Why ſhould the Neceſſity of making it be impoſed upon any Man in the Kingdom? If an Uſe is to be made of it, by whom is that Uſe to be made? Why, by the other Houſe, in a diſtinct and ſeparate Capacity, and without the Concurrence of either of the other two Branches of the Legiſlature. Nay, they are to become ſuperior to the chief Branch of our Legiſlature, to the Crown itſelf; for they are to judge of the Actions of the Crown, and may determine that a well merited Reward given by the Crown for the moſt eminent public Services, was a corrupt Reward given for a Gentleman's corrupt Behaviour in their Aſſembly. Is not this, my Lords, a new and a moſt dangerous Power? It is, in my Opinion, a Power abſolutely inconſiſtent with our Conſtitution; for if the other Houſe ſhould once render themſelves ſuperior to the Crown, they would of courſe become ſuperior to this Houſe likewiſe, and would ſoon engroſs, as they have done before, the whole Power of our Government. They would either vote this Houſe uſeleſs, as they have once done already, or they would render it inſignificant, by making it entirely ſubſervient to them.

Thus, I think, it is apparent, that our happy Conſtitution would be brought into greater Danger by this Bill's being paſſed into a Law, than it is in at preſent, or can ever well be, from Corruption. But, my Lords, how does this Bill guard againſt Corruption? In my Opinion, not in the leaſt. The Members are to declare upon Oath every Gratuity or Reward they receive. If that Gratuity or Reward ſhould be paid and received from a corrupt Motive, will this ever compel a Diſcovery? Can we ſuppoſe, that a Wretch ſo abandoned as to betray and ſell his Country for a ſmall Reward, will ever have any Regard to an Oath; eſpecially in Caſes where it is allowed, there is no Probability of convicting him of Perjury? We may as well, I think, make a Law for obliging a ſuſpected Man to ſwear, that he has never robb'd upon the Highway. I hope, I ſhall be allowed to ſhew ſome Regard for Religion, by refuſing to proſtitute the ſacred Solemnity of an Oath, in Caſes where it is almoſt certain, a Man will rather perjure himſelf than confeſs his Guilt. The Laws of this Kingdom have always been extremely cautious of ſubjecting a Man to an Oath, in any Caſe where his Intereſt may be concerned. By the Common Law it is never done: Even in Equity, Frauds only are diſcoverable by the Oath of the Party; for

for if a Man be in any Danger of ſubjecting himſelf to a Penalty, he is not obliged to anſwer; and even as to Frauds, we ſeldom find any Diſcovery made, except in Caſes where the Defendant is ſuſpicious of the Plaintiff's having ſome latent Proofs againſt him. In this Caſe, therefore, as in all others of the like Nature, an Oath will be no Check upon wicked Men, who are ready to ſell their Country for a Bribe or corrupt Reward; and it may be a Trap for the Honeſt and Virtuous, who have ſerved their Country faithfully and effectually, and have moſt juſtly received from the Crown, a ſmall Reward for their Service. Ann. 13 Geo. II. 1739.

But ſuppoſe, my Lords, there were in this Caſe no ſuch Danger; yet ſurely every Oath that is impoſed by an expreſs Law, ought to be ſuch a one as may be underſtood by thoſe that are to take it. The Oath propoſed by this Bill is, I think, ſuch a one as can be underſtood by no Man. Gratuity or Reward are Words ſo vague and indeterminate, that no Man can tell what to make of them. It is extremely difficult to ſettle the Boundary between a Favour and a Gratuity; and the Favours that may be conferred by the Crown upon the Subject, are ſo various, and ſo frequent, that there would be no End of declaring them, nor any Poſſibility of determining what was a Favour, and what a Gratuity. A Poſt given to a Gentleman's Brother or Son, nay, even to his Footman, at his Requeſt, might be interpreted as a Gratuity; and would very probably be ſo by the other Houſe, in caſe the Majority of them did not like his Face, and he had for ſome Time neglected to declare it. This would introduce ſo much Confuſion, and is apparently ſo inconvenient for every Gentleman that has, or may have, the Honour to be a Member of the other Houſe, that, I am perſuaded, they would never have agreed to a Regulation ſo inconvenient, and at the ſame Time ſo ineffectual for the End pretended, if they had not had ſome other View than merely that of preventing Corruption.

Whether they were ſerious or not in paſſing this Bill, can be of no Conſequence, my Lords, to us. If it were a good Bill, I ſhould be for paſſing it, whether they were ſerious or not. But, as I think it a bad Bill, as I think it a Regulation altogether ineffectual for the End pretended, and very dangerous with regard to the End which I ſuppoſe to be concealed, therefore, I ſhall be againſt its paſſing, without conſidering in the leaſt, whether or no the other Houſe, or any Number of them, was ſerious in ſending it up. If your Lordſhips think, we have now any juſt Apprehenſions from Corruption: If we are in any preſent Danger of having a Majority of the other Houſe made more ſubſervient to the Crown than they ought to be, by

Ann. 13 Geo. II. 1739.

Penſions and pecuniary Rewards, any one that thinks ſo may preſent a Bill, or you may order the Judges to bring in a Bill, for obviating that Danger; but the Bill now before you is not only ſo imperfect, but ſo improper for attaining that End, that I think it impoſſible to make any Thing of it in the Committee; and therefore, I ſhall be againſt our taking up our Time, which may be otherwiſe ſo uſefully employed, with going into a Committee upon it.

For my own Part, my Lords, I do not think, we are in any immediate Danger from Corruption; I do not think, we can be in any ſuch Danger, while we enjoy the Happineſs of having his preſent Majeſty upon the Throne. He will never aſk, he will never allow his Parliament to be aſk'd to do any Thing, but what is neceſſary for the public Good; and for ſuch Purpoſes no Penſion or Gratuity to any of the Members will ever be neceſſary, unleſs Faction, Sedition, and Diſaffection ſhould get Poſſeſſion of a great Majority of the Nation, which, I hope, will never be the Caſe. We have, therefore, no immediate Call to contrive any new Barriers againſt Corruption, and if any of his Majeſty's Succeſſors ſhould form ambitious Views againſt our Liberties, and think of rendering thoſe Views ſucceſsful by Corruption, the Barriers we have already, will, I hope, be able to defend our Liberties againſt ſuch Attempt, till our Poſterity can raiſe new and more effectual Barricades againſt the Approach of that political Diſtemper.

I hope, my Lords, I ſhall always be as jealous of the Liberties of my Country as any reaſonable Man ought to be, and I confeſs, we ought always to look with a jealous Eye upon the new Projects formed by Miniſters; but there is another Set of Men, upon whom we ought likewiſe to look with a jealous Eye, and that is, thoſe Gentlemen who, under the Pretence of preſerving or ſecuring our Liberties, are for new modelling our Conſtitution, at a Time when there is no apparent, much leſs an imminent Danger. Securing our Liberties has been before now made a Pretence for deſtroying them, and the Vulgar and Ignorant are always fond of every Thing that's new, which has too often rendered ſuch Deſigns ſucceſsful. The Bill now before us, I think, I have ſome Reaſon to conſider in this Light, and the more ſo, becauſe of the Motion that was ſince made in the other Houſe, for excluding all Placemen, except a very few, from having Seats in that Aſſembly. Both theſe Regulations were, I find, promoted by the ſame Men; and if both had ſucceeded, our happy Conſtitution would have been brought into the moſt imminent Danger; for the Crown would then have been under a Neceſſity of employing none but Perſons of low Rank in its Service, which would of courſe have

have rendered the Service contemptible, and might very probably have produced ſuch a Civil War as we had, but laſt Century, between our Sovereign and his Parliament. A noble Hiſtorian has obſerved, that, in King *Charles* the *Firſt's* Time, the Arts and Clamours of the diſaffected Party at laſt ſo far prevailed, that it became ſcandalous to ſerve the Crown, which ſo weakened the Hands of the Crown, and ſo much exalted the Power of the leading Men in the other Houſe, that they involved their Country in a bloody and deſtructive War, overſet our Monarchy, and at laſt turned your Lordſhips out of Doors. Theſe wicked Deſigns began to be formed in the Year 1640, and if theſe two new Regulations had meet with Succeſs, I ſhould have had the Sorrow to ſuſpect, that ſome ſuch Deſigns were now in Embryo; but thank God, one of them was defeated, upon its firſt Appearance, in the Houſe of Commons; and, I hope, the other will be defeated by your Lordſhips.'

The Lord *Carteret*.

The Lord *Carteret*.

'My Lords, it ſignifies nothing to make Declamations againſt Corruption, unleſs we do ſomething againſt it. I believe, no Man ever yet ventured to declaim ſeriouſly in its Favour; but many have declaimed powerfully againſt it, and yet, at the ſame Time, have as powerfully, and much more effectually, recommended it by their Practice. The People without Doors will but little regard what we ſay againſt Corruption; but the Example of this Houſe will have a great Effect. Let us convince them by what we do, that no Lord of this Houſe is guilty of being corrupted, which I am convinced, is the Caſe, and the Crime will ſink by the Weight of its own Infamy. But if your Lordſhips, by rejecting this Bill, ſhould raiſe but a Suſpicion, that any of you are guilty, that every Suſpicion will give Countenance to the low Tools of Corruption; and your ſuppoſed Example will eſtabliſh and propagate a real Practice.

I am extremely ſorry, my Lords, to hear his Majeſty's Name mentioned upon this Occaſion. I would not be ſo unjuſt. even to his Majeſty's Miniſters, as to attempt to vindicate them upon ſuch an Occaſion; becauſe a Vindication always ſuppoſes ſome previous Reproach. The Confidence we have in his Majeſty's Wiſdom and Juſtice, makes ſuch a Vindication with reſpect to him, abſolutely unneceſſary; and, I hope, no one of his Miniſters ſtands in need of any Vindication upon this Head. But ſuppoſe ſome one of his Majeſty's Succeſſors ſhould be ſuſpected, ſhould be known to have Deſigns againſt our Liberties, ſuppoſe his Miniſters ſhould be known to make

Ann. 13 Geo. II. 1739.

uſe of Penſions and Bribes, in order to render their Maſter's Deſigns ſucceſsful, and ſuppoſe ſuch a Bill as this ſhould be brought into either Houſe of Parliament, in order to put a Stop to ſuch dangerous Practices, would any Member riſe up in his Place, and accuſe his Sovereign of having ſuch Deſigns? Would any Member of either Houſe ſtand up in his Place, and directly accuſe a Miniſter, even tho' he had the moſt evident Proofs of his being guilty of corrupting the Members? My Lords, no Member would be ſuch a Madman, unleſs he were well aſſured of having a Majority in both Houſes againſt Corruption; and this he could no way be aſſured of, but by the Succeſs of the Bill. Were thoſe Deſigns of the Prince, and thoſe Practices of his Miniſters, as apparent as the Sun at Noon-day, both the Prince and the Miniſter would be vindicated by their Tools in Parliament; and the Patrons of the Bill, till they ſaw its Fate, would then do, out of Prudence, what we now do out of Juſtice, at leaſt with reſpect to his Majeſty. They would paſs Compliments upon the Prince then upon the Throne, they would, perhaps, even compliment his Miniſters; but as ſoon as they had, by the Succeſs and Effect of their Bill, cleared the two Houſes from Corruption, they might then probably begin to talk in another Strain, with regard to the Miniſters; becauſe upon removing the Corrupted, it would be eaſy to make the Crimes of the Corruptor appear.

The Queſtion now before us, my Lords, does not relate to Perſons, but to Things. It does not relate to his preſent Majeſty, or his next Succeſſor; nor to the preſent, or any future Adminiſtration. The Queſtion is, whether we ſhould be in Danger of having our Conſtitution overturned by Means of Corruption, ſuppoſing we had a Prince upon the Throne that would attempt it, and an Adminiſtration that would, in the moſt cunning Manner, uſe all the Methods now in the Power of the Crown for accompliſhing it. This is the proper Queſtion now before us, and if your Lordſhips do not anſwer this Queſtion in the Affirmative, I will be bold to ſay, you differ in Opinion from nine tenths of the Nation, I believe, I may ſay, from ninety nine out of a Hundred of thoſe who are not miſled in their Judgment by ſome corrupt Prejudice. But if you do anſwer it in the Affirmative, you muſt allow, that the Danger itſelf is preſent, tho' we may depend upon our not falling into it during his preſent Majeſty's Life. Therefore, in Prudence, we ought to provide againſt it, whilſt it is in our Power; for it is a Sort of Danger from whence there is no legal Recovery; if we once fall into it, it will be impoſſible to get any Law paſſed for preventing Corruption. The Rev. Prelate, when he ſays, he hopes, our Poſterity may at ſuch a Conjuncture be able to raiſe new Barricades

ricades againſt Corruption, ſeems to forget, that no new Barricade can be raiſed without the Royal Aſſent; and will a Prince who intends to rule by Corruption, give the Royal Aſſent to any Bill for preventing it? Will not all corrupt Methods be made uſe of to prevent ſuch a Bill's paſſing both Houſes? And if it ſhould, by a miraculous Flow of Virtue on one Side, and very imprudent or raſh Management on the other, be carried through both Houſes, may not the Prince prevent its being paſſed into a Law, till that Flow of Virtue ſubſides, or till he can fall upon Methods to apply more properly the infinite Means of Corruption now lodged in the Crown. Ann. 13 Geo. II. 1739.

It will, therefore, be hardly poſſible to recover from the Danger of loſing our Liberties by Corruption, after we have once actually fallen into it. Other Dangers we may recover from, becauſe we become ſenſible of them before we have loſt our Strength; but Corruption, like a Conſumption, is a Diſtemper that comes by ſlow Degrees, and enfeebles as it approaches; ſo that before we become ſenſible of our Danger, we have no Strength to uſe the proper Remedies, and often think we are in perfect Health when we are juſt expiring. For this Reaſon, my Lords, the Dependance we have upon his preſent Majeſty's Wiſdom and Goodneſs, the Confidence we have, that no corrupt Practices have of late been made uſe of, are ſo far from being Arguments againſt the Bill, that they are ſtrong Arguments in its Favour. A Time like this, is the only Time we can take for preventing ſuch a contagious Diſtemper; for if the infected ſhould once get the Power into their Hands, they will lock up inſtead of being lock'd up by the Healthful. Therefore if this Bill can be ſuppoſed to have any Effect, and cannot be ſuppoſed liable to any very great Inconvenience, we ought to embrace the favourable Opportunity we now have, of doing, as well as declaiming againſt Corruption.

As to the Objections that have been made againſt ſome particular Clauſes or Expreſſions in the Bill, they are Reaſons, my Lords, not for rejecting but amending it: Nay, if we deſpaired of being able to make a good Bill of this now before us, yet we ought to go into a Committee upon it, that every Lord may give his Sentiments freely upon the ſeveral Parts of it, and may offer what Clauſes or Amendments he thinks neceſſary for rendering it effectual; becauſe, from thence, a good and effectual Bill may be formed, and made ready for being offered to the next Seſſion of Parliament. For this Reaſon, I muſt think, that no Lord can be againſt committing it, unleſs he be of Opinion, that the Laws now in being are ſufficient for preventing any corrupt Influence in either Houſe of Parliament; and however general ſuch an Opinion may be in this Houſe, it is ſuch a one

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Ann. 13 Geo. II. 1739.

as will not, I am ſure, meet with Approbation from the Generality of People without Doors; therefore, if this were really my Opinion, I ſhould nevertheleſs, be, not only for committing, but for paſſing the Bill now under our Conſideration, with ſuch Amendments as may be thought proper in the Committee; becauſe it would quiet the Minds of the People without Doors, and can be attended with no real Inconvenience, whatever may be pretended to the contrary.

I muſt confeſs, my Lords, I could not conceive what the Rev. Prelate meant, when he talk'd of a new and dangerous Power being to be added to the Houſe of Commons by this Bill. If ſuch a Bill ſhould be paſſed into a Law, it will, indeed, add new Power to that Houſe, becauſe it will add to their Character, which is the chief, and the only ſolid Foundation of all Power; but if your Lordſhips reject ſuch a Bill, after they have paſſed it, I am ſure, it will leſſen yours; and then, 'tis true, the Power of the other Houſe may become dangerous; for if the Character, and, conſequently, the Power of the other Houſe ſhould be raiſed and yours at the ſame Time leſſened, you may not only put it in their Power, but you may make it neceſſary for them, to vote you uſeleſs a ſecond Time. It was this very Thing that enabled them to do ſo about a Century ago. It was not the Arts, or the Clamours of the Diſaffected, but the Meaſures purſued by the Court, that rendered it ſcandalous to ſerve the Crown in King *Charles* I's Time; and it was the ſupporting of ſuch Meaſures, or at leaſt preventing the Authors of them from being puniſhed, that made this Houſe forfeit its Character among the People. The Reverend Bench ought to remember the fatal Conſequeuces occaſioned by that Forfeiture and how much their Bench contributed to it, by their Behaviour at that Time. It was the imprudent and ſervile Behaviour of a Majority of this Houſe, that then raiſed the Power of the other, removed the Reverend Prelates from amongſt us, and, at laſt, made the Houſe itſelf really uſeleſs, before it was voted ſo by the other; for when we have not Wiſdom, Virtue and Courage enough to be a Check upon the other two Branches of the Legiſlature, we are really uſeleſs, whether are we voted ſo or no.

By this Bill, my Lords, there are no ſuch Powers as the Reverend Prelate means, to be added to the other Houſe: They are to acquire no Power, nor any Right, but what they already enjoy. They neither are, nor are, by this Bill, to be rendered ſuperior to the Crown; but they are, and ought to be a Check upon the Crown; and if the public Money ſhould be ſquandered away by the Crown, in unmerited or ill-merited Penſions and Gratuities, they might take Notice of it, and put a Stop to it, though no

ſuch

ſuch Bill as this ſhould paſs into a Law: They ought to do ſo: They would be deficient in their Duty if they did not; and one of the Ends of this Bill is, to prevent that Deficiency; for it cannot be ſuppoſed, that a Houſe of Commons would take Notice of, or put a Stop to, ſuch Squandering, if a Majority of them were Receivers of ſuch Penſions or Gratuities. Even with reſpect to their own Members, they are not, by this Bill, to acquire any new Power: They have already a Right to judge, whether any Gentleman that claims it, has a good Title to be a Member of their Houſe; and this Bill is only to furniſh them with a new, and a neceſſary Method for enquiring into that Title. A Penſioner has no more a Right to be a Member of the other Houſe than a *Roman Catholic:* The latter may be choſen, and may take his Place there, if he will take the Oaths preſcribed by Law; but thoſe Oaths have been found to be an effectual Bar to *Roman Catholics*, and, I hope, the Oaths preſcribed by this Bill, if it ſhould paſs into a Law, will be found to be an effectual Bar to Penſioners. If the Law had only inflicted a Penalty upon a *Roman Catholic* who ſhould ſit and vote in the other Houſe, it would, certainly, have had no Effect, becauſe of the Impoſſibility of proving the Offence; and as it is more difficult to prove a Man's being a Penſioner, than to prove a Man's being a *Roman Catholic*, is it poſſible to imagine, that the Laws now in being can be effectual, for preventing Penſioners from ſitting and voting in the other Houſe? Can any Reaſon be aſſigned for not taking that Method in the one Caſe which has been found ſo effectual in the other? A Gentleman's refuſing to take the Oaths, is very much contrary to his private Intereſt, becauſe it ſubjects him to ſeveral Penalties and Diſabilities; yet, I believe, the Reverend Prelate will not ſay, that no ſuch Oaths ought to be impoſed, becauſe of its promoting Perjury; and, I am convinced, even the Reverend Prelate will allow, we are now in greater Danger from Penſioners than from *Papiſts*.

Ann. 13 Geo. II. 1739.

But the Oath propoſed by this Bill is, it ſeems, an unintelligible Oath, becauſe the Words Favour and Gratuity cannot be certainly diſtinguiſhed. My Lords, they are, I think, as diſtinct as any two Words in the *Engliſh* Language. No Man will ſuppoſe, that a Poſt granted to a Brother or Servant at his Requeſt, is a Gratuity to him, unleſs he is to reap ſome Benefit by the Grant. But ſuppoſe a Man ſhould think ſo, and, therefore, give an Account of it to the Houſe, where would be the Harm? Such a Declaration would give the other Houſe no greater Power than they have at preſent. They might, perhaps, paſs a wrong Judgement, and turn him out of their Houſe when

Ann. 13 Geo. II. 1739.

when they ought not; but may not they do the ſame as the Caſe now ſtands? And will you prevent its being in their Power to come at the Truth of a Fact, leſt they ſhould paſs a wrong Judgment when they have come at that Truth? That Judgment would ſubject no Man to a Penalty; for the Penalties are to be recovered only at Common Law; and it cannot be ſuppoſed, the Judges would condemn a Man, for ſitting in the other Houſe after he had got a little Poſt for his Servant, or a great one for his Brother, unleſs it appeared, that the Member was quartered upon his Brother, which may ſometimes be the Caſe.

But, I believe, my Lords, we have no Occaſion to be afraid of the other Houſe's miſinterpreting a Favour, or even a Reward, and taking it for a Penſion or Bribe, if the Receiver be ſuch a one as has truly merited the Reward. If Admiral *Vernon* were now a Member of the other Houſe, and ſhould receive a Reward from the Crown for the Service he has done his Country, would any Member look upon it as a Bribe? No one would; and, I believe, he would ſoon convince them, he did not himſelf look upon it as ſuch. There is not, my Lords, the leaſt Danger, that ever the other Houſe will call a Favour, or deſerved Reward, a Penſion or Bribe: The Danger is wholly upon the other Side of the Queſtion. The other Houſe may now call that a Favour or deſerved Reward which is really a Bribe, and even though this Bill ſhould paſs into a Law, they may do the ſame; but in this Caſe, no more than the other, the Judges, when the Affair comes before them by way of Proſecution for the Penalty, are not obliged to abide by the Determination of the Houſe of Commons; and there is not near ſo much Danger of the other Houſe's paſſing a wrong Judgment in this reſpect, when all Favours and Rewards are declared and acknowledged publicly, as when moſt of them remain in Petto of the Corruptor and Corrupted only.

I hope, I have now anſwered all the Objections made againſt committing this Bill, and, therefore, I ſhall conclude with obſerving to your Lordſhips, that if you reject it, all thoſe who think we are in Danger from Corruption, will conclude, that it is already become impoſſible to guard againſt it by any legal Means, and will, therefore, begin to think of ſome other Method for preſerving our Conſtitution, which may prove of dangerous Conſequence to the illuſtrious Family now upon our Throne. This, I am ſure, will have great Weight with every one of your Lordſhips; and, therefore, if you conſider it as you ought, the Queſtion muſt, I think, meet with the unanimous Concurrence of this Houſe, and the Bill itſelf, with the Aſſiſtance of every one of your Lordſhips, towards rendering it a perfect Bill.

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